A large rectangle of red dirt on the flat expanse of West Texas' Permian Basin reminds Sadrac Garcia every day of what his family has lost. A few months ago, he could stand on the small porch of his brother Juan’s double-wide and peer into the window of their parents’ trailer a few meters away. Until 2017, three generations of Garcias lived on these couple of acres. The family is slowly selling off the homes and the land, an attempt to move on after their father, Isac Garcia-Wislar, died in the custody of a local jail.

Sadrac, soft-spoken but direct, is tall and solidly built, with a rough goatee and a white cowboy hat. He shows me a photo of his father on this late August afternoon; they look nearly identical. “It’s very sad being here,” he tells me. Sadrac has moved to Odessa, about 20 minutes away. Yesenia Garcia, his mother, is living in Fort Worth with her daughter, Arelly. But moving has not helped with moving on. “I never really stop thinking about it, about what happened to him,” says Sadrac.

Isac was 51 when, in March 2017, he was locked up in the Tom Green County Jail, in San Angelo, three hours east. A construction worker and oil field roustabout, Isac had been riding in a cousin’s car when a sheriff’s deputy pulled them over for speeding. The officer purportedly found open bottles of alcohol and two tiny bags of cocaine. Though Isac wasn’t driving and it was not his car, the deputy arrested both men, and because Isac had no identification, the deputy called Border Patrol to report him. While Isac’s cousin, a US citizen, quickly bonded out, Isac was not released. Border officials had placed an immigration hold on him and referred him to federal prosecutors.

As soon as he was charged, Isac became a detainee of the US Marshals Service, an arm of the Department of Justice. In fiscal year 2018, the Marshals held nearly 240,000 people facing federal criminal charges. On any given day, the Marshals hold more people than Immigration and Customs Enforcement, and more than all the county jails of any state except California and Texas. The Marshals run this vast pretrial detention system without owning or operating any jails. Instead, the agency houses its detainees in about 1,100 jails and private facilities around the country. Almost two-thirds of these federal pretrial detainees—who have not been convicted of any crimes—are held in local lockups like Tom Green, typically run by sheriffs. The remainder are held in either privately run jails under contract with the Marshals or federal detention centers run by the Bureau of Prisons, mostly in a handful of large cities.

Due in large part to President Donald Trump’s aggressive immigration policies, the Marshals population is approaching historic highs. About two-thirds of all prosecutions between October 2018 and April 2019 were related to immigration crimes, including many of the people swept up in Trump’s “zero tolerance” border policy. In their frantic pursuit of beds, the Marshals have helped prop up failing jails, according to our extensive analysis of government inspections and reports, as well as interviews with current and former Marshals and Justice Department officials.

After four months in Tom Green County Jail, Isac began calling Yesenia and Sadrac repeatedly each day. He said he was weak, in excruciating pain, and getting...
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Deadly Detention (cont.)

worse, but the jail wasn’t doing much to help. He asked his family to find a doctor, a lawyer—anyone who might get him the attention he needed.

On July 6, four months after he was arrested, Isac told a jail nurse that he had intense pain in his back and shoulder, and he was short of breath. He was sent to a medical holding cell for more frequent monitoring. The next day, he returned to the infirmary and a nurse wrote in his medical record that he was moaning and grabbing his arm in “extreme pain.” But a supervising nurse, who didn’t personally evaluate Isac, ordered only that he be given ibuprofen. A day later, he was still suffering. Yet another nurse flagged his intensifying pain to a sergeant, asking if Isac should be sent to the Shannon Medical Center in San Angelo, which is contracted to provide the jail with medical services and staff, including nurses. The sergeant responded that Isac was malingering, that he’d been complaining of “different illnesses” all week.

Two days later, on his 32nd birthday, Sadrac visited his father. After waiting for several hours in a video visitation booth, Sadrac finally saw Isac and was horrified to find him frail and unable to stand. Sadrac says he asked jail officials if he could bring in a private doctor, but they refused and told him they had his father’s care under control. Desperate, Sadrac went to the federal courthouse where the Marshals have an office. “If the Marshals are at the top, I thought maybe I could go talk to them and tell them what was happening,” Sadrac told me. But he didn’t get past a receptionist.

That night, Isac collapsed, facedown in his cell. He was brought back to the infirmary, where he spent the night, and the next morning a nurse decided to send him to a hospital. Yet three more hours passed before he was rolled in a wheelchair into a jail vehicle that delivered him to the Shannon Medical Center. A nurse had told correctional officers that his case was not urgent.

Right away, the hospital staff saw what his family had already known: Isac was in dire condition. A day later, he was unconscious. On July 14, he died from sepsis and multi-organ failure.

Two independent doctors whom I asked to read Isac Garcia-Wislar’s medi-

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The Marshals are the invisible giant,” said César Cuauhtémoc García Hernández, a professor of law at the University of Denver and the author of the forthcoming book *Migrating to Prison*. “They’re overlooked by almost everyone because they do not run their own prison system. You can’t point to a US Marshals facility and say, ‘That’s a Marshals facility.’ They contract with counties and private corporations and so they are invisible and are never the focus of attention.” This proved to be true even in the suicide of Jeffrey Epstein: Despite international outrage and a flurry of journalistic and regulatory scrutiny of the practices at the federally run Metropolitan Correctional Center in New York, which held him, the fact that Epstein was a Marshals detainee, and that Marshals shuttled him back and forth between MCC and the federal courthouse, went largely uncommented on. So did the fact that the agency was investigating him for failing to notify it of international travel, in violation of his sex offender status, before he was arrested in July.

Given their overwhelming size and growing role as the foundation for an interlocking system of criminal and immigration detention, “the US Marshals should be an additional layer of assurance that the custody, control, and care of humans is being performed at the level we should expect,” said Noel March, who served for eight years as the US Marshal for the District of Maine, until 2018. Yet, he told me, “That’s not the role they’re playing.” Smith, the former Justice Department official, told me they “are essentially looking the other way, playing a weak hand and leaving the jails to do what they will.” They operate, he added, with “an attitude of indifference.”

The Marshals’ far-flung detention system has never been thoroughly examined, in part because the agency has resisted the release of information. I had to sue them in federal court to obtain the annual inspections they conduct of facilities they use. Data found through the suit shows that 158 people died while in Marshals detention between June 2016 and June 2019, and hundreds more died in the preceding five years. It’s a rate of death that far outstrips that of the parallel federal system run by ICE, but on par with the troublingly high death rates in county jails in general. In the two-plus years since I filed my lawsuit, the agency has fought the release of medical records related to detainees who have died, arguing to a federal judge that it would violate the privacy rights of dead inmates or their relatives.

In April, Judge Sidney Stein of the US District Court for the Southern District of New York forcefully rejected the government’s argument, finding that “the public has a right to know the circumstances under which people die while detained in the pretrial custody of USMS.” The agency still failed to produce all the records I requested, and two months later, the judge issued a second order demanding their release.

Eventually, the rest of the files started to arrive. I arranged for a team of six independent doctors—four medical generalists and two psychiatrists—familiar with treatment in prison to review the medical care provided in these cases. While some of the charts contain too little information to allow the doctors to substantially analyze them, even in this initial release of records they’ve identified cases where failures in medical care and suicide prevention are implicated in deaths.

“You’d think they’d pay attention to the people they’re locking up,” Sadrac Garcia told me as he gazed out at where his parents’ house once stood. “You’d think.”

That the Marshals refuse to meaningfully monitor the local jails that hold its detainees is particularly ironic, since throughout the agency’s history, the Marshals’ role has been to administer justice where state and local law enforcement cannot or will not act.

The first US Marshals were appointed by George Washington, tasked with enforcing the will of the federal courts. In the movies, Marshals have been portrayed by the likes of Tommy Lee Jones, who chased down the wrongly accused Harrison Ford in *The Fugitive*, and Clint Eastwood, who tracked a gang of cattle rustlers in *Hang ‘Em High*. Real-life Marshals have included Virgil Earp and a slew of Wild West figures, but also Frederick Douglass. Part of their history is decidedly contemptible: Marshals were deployed to hunt fugitive slaves, and Marshals participated in the incident at Wounded Knee. But they were also the men who, in yellow armbands, flanked 6-year-old Tommy Lee Jones, who chased down the wrongly accused Harrison Ford in *The Fugitive*, and Clint Eastwood, who tracked a gang of cattle rustlers in *Hang ‘Em High*. Real-life Marshals have included Virgil Earp and a slew of Wild West figures, but also Frederick Douglass. Part of their history is decidedly contemptible: Marshals were deployed to hunt fugitive slaves, and Marshals participated in the incident at Wounded Knee. But they were also the men who, in yellow armbands, flanked 6-year-old Tommy Lee Jones, who chased down the wrongly accused Harrison Ford in *The Fugitive*, and Clint Eastwood, who tracked a gang of cattle rustlers in *Hang ‘Em High*. Real-life Marshals have included Virgil Earp and a slew of Wild West figures, but also Frederick Douglass. Part of their history is decidedly contemptible: Marshals were deployed to hunt fugitive slaves, and Marshals participated in the incident at Wounded Knee. But they were also the men who, in yellow armbands, flanked 6-year-old

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Ruby Bridges as she entered a New Orleans public school in 1960 to desegregate it; who guarded James Meredith while he attended Ole Miss; who enforced desegregation of Boston’s public schools; and who protected doctors trying to enter abortion clinics amid a spate of attacks.

In recent decades, one part of the agency’s purview has grown dramatically: Pretrial detention has become the most expansive and expensive slice of the Marshals operations. President Ronald Reagan’s war on drugs meant not only that more people were indicted on federal drug charges and incarcerated for longer, but also that fewer defendants were released while they awaited a verdict. The 1984 Bail Reform Act made it easier for judges to detain any federal defendant deemed a danger to the public, or a flight risk. Within a decade, the Marshals inmate population tripled to more than 18,000.

That number ballooned again as the war on drugs was joined by a war on immigrants. In 2001, the number of Marshals detainees reached nearly 39,000. A decade later, it was more than 60,000, scattered in jails and private facilities and a handful of federal centers across the country. Immigrant defendants are more likely to be locked up as they face charges because foreign citizenship is considered a flight risk factor. Nearly 9 out of 10 Latino federal defendants are detained while they await trial, far exceeding any other group.

In the final years of the Obama administration, as immigration and drug prosecutions began slowly to decline, the Marshals’ daily detainee population declined as well, to about 51,000. But the numbers are soaring again—by March 2019 they’d reached 62,000 a day—a little-noticed outcome of President Trump’s zero-tolerance immigration policy. Trump has made prosecuting undocumented border crossers a priority. The decision to criminally charge parents crossing with children was then used as the pretext to separate them from their children. Though some people plead quickly and are sentenced to time served before promptly being deported by Customs and Border Protection, tens of thousands spend weeks or months in Marshals detention, including an unknown number of parents whom CBP officials have separated from their children.

Those charged with illegal reentry, like Isac Garcia-Wislar—people who return after a previous deportation—can be held for months by the Marshals.

In June 2019, when Congress was debating a controversial $4.6 billion emergency border spending bill, one of the central points of contention was funding the detention of migrants, including a $155 million infusion to pay the Marshals for pretrial detention of immigrants. That spending was approved, and much of those funds will continue to flow to detention facilities with minimal oversight.

The explosion of detainees in recent years has left the Marshals hungry for beds and deeply entrenched in the most shadowy, poorly run segments of the American criminal justice system—private or county-run jails. With 94 regional divisions, one for each federal court district and each with its own Marshal—each with dozens or even hundreds of deputies who transport detainees to and from court—the service is well positioned to help regulate these jails. But two decades ago, when the Justice Department tried to meet the detention boom with stronger oversight, the Marshals

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Deadly Detention (cont.)

pushed back. Rather than bringing law and order into the breach as it had before, the agency argued that oversight was not its job and pursued a noninterventionist approach—effectively condoning bad actors.

As a retired high-ranking Marshals official who was involved for decades in detention oversight told me, “They’re looking for beds wherever they can find them. They’ll take whatever they can get.”

The Jack Harwell Detention Center, a privately run county jail on the outskirts of Waco, Texas, was “big and shiny and new,” its warden bragged, when it was built a decade ago to provide hundreds of new beds to rent to federal law enforcement agencies. The jail soon became a stain on McLennan County. Over the past two years, the Waco Tribune-Herald has run regular stories about the jail’s stunning dereliction, its poorly performing staff, and its repeated inability to pass a state audit. Between August 2018 and March 2019, the jail failed three consecutive inspections by the Texas Commission on Jail Standards, a state oversight body. The situation degraded dramatically that in May, the commission took the unusual step of ordering McLennan County to fix the problems or the commission would reduce the detention center’s population. (The center met the demands of a remedial order, and the reduction did not occur.)

Since 2011, Harwell has been inspected 19 times by the state commission and failed nearly half of these evaluations. In 2015 and 2016, two detainees killed themselves in Harwell; each time, Texas inspectors discovered that guards had forged logs to make it appear they’d performed routine cell checks that they had not. The jail said it implemented corrective measures. But two years later, state inspectors found, suicidal detainees were again left unchecked.

Other agencies sounded alarms. After the jail opened, ICE contracted with Harwell to house immigrants facing deportation. But that year, in 2011, ICE pulled its detainees out of Harwell (then run by the company CEC) over poor medical care; an ICE spokesperson said the facility was “unable to provide appropriate medical treatment in accordance to our detention standards.” (Shortly after, ICE moved detainees back into Harwell.) In September 2018, the McLennan County Sheriff’s Office sent its deputies inside and found the jail in a state of filth—with dirty meal trays and garbage strewn everywhere. “The trash was bad enough I had to step over multiple piles in order to move about,” one officer wrote. Mildew was thick in the bathroom. Detainees were walking around cells in their underwear, and they complained that Harwell only washed their clothes once a week. Guards appeared to be overworked and undertrained, and the place was scarred by violence: One deputy watched a Harwell officer smash an inmate to the ground to restrain him, sending the inmate to the hospital for sutures.

In April, I met Captain Ricky Armstrong of the McLennan County Sheriff’s Office. He’s in charge of the county’s own pretrial detainees—Harwell holds about 350 of them—and he’s the one who sent his deputies to inspect the jail. In his office in Waco, a cowboy hat on his head, he set a pair of handcuffs on his desk and told me it was time to make a change. “It’s no secret: I want the jail in county control,” Armstrong told me. He wanted the jail’s private contractor, LaSalle Corrections, out. Six weeks later, LaSalle announced it wouldn’t renew its contract with the jail.

It was a remarkable confluence, with Texas law enforcement and regulators, even federal immigration officials, united in alarm about a failing county jail. Yet even as state and county officials were repeatedly flagging dangerous failures, the Marshals, whose detainees are normally held in a dedicated wing in the jail, filed virtually spit-clean inspection reports about the jail’s operations. Even the previous suicide of Marshals detainee Kristian Culver had failed to trigger any clear consequences from the agency.

On April 2, 2016, Culver, 32, a slight, bright-eyed Latino man, walked barefoot into a hotel off a highway between Austin and Waco, and claimed to be a cop with an arrest warrant for a hotel guest. Suspicious, the hotel clerk called the police. Culver ran, the cops chased, and Culver broke his arm in the pursuit. When the police searched Culver’s car, they found a gun; he was charged with impersonating a public official who was involved for decades in detention oversight told me, “They’re looking for beds wherever they can find them. They’ll take whatever they can get.”
servant and assaulting an officer, as well as unlawful possession of a firearm, a federal charge. In anticipation of his arraignment at the courthouse in Waco, the Marshals moved Culver into Harwell on the morning of April 11, 2016.

Seven weeks later, an officer noticed a towel covering the window into Culver’s cell and opened the door to find him hanging by his neck from a braided bed sheet suspended from an air conditioning vent.

Before sending Culver to Harwell, the Marshals knew he’d been diagnosed with serious mental illness—he’d been incarcerated six years earlier by the feds, also on gun possession charges, and a document in his file notes a diagnosis of bipolar disorder. At Harwell, Culver had been evaluated by a nurse, who noted the diagnosis. Six days later, Culver met a jail doctor who wrote that he was also suffering from PTSD—that he was experiencing flashbacks and might have intended to kill himself with the gun that led him into Marshals’ custody. Days later, a Harwell officer found a rope in Culver’s cell and sent him to meet with mental health services. In that meeting, Culver said he feared solitary confinement, and the clinician evaluating him recommended not returning him to a single-person cell.

But he was sent to a hall called the N-wing, designed for disciplinary segregation and also used as overflow for “protective custody” detainees, those thought to be at risk of harm from themselves or others. He had no cellmate.

Before Culver killed himself, he wrote a note saying that his death was his fault.
Deadly Detention (cont.)

alone: “Nobody is responsible for my untimely death. I was unable to digest the stress and fear...about going to prison.”

I had two independent psychiatrists review Culver’s file. They each said that based on his self-reports to the jail’s counselor, the medication he was prescribed for bipolar disorder appeared to be inappropriate, perhaps dangerously so, considering his concurrent PTSD diagnosis. What transpired, one of the psychiatrists told me, was “a negligent response both chronically and acutely. This was not a subtle or hard-to-predict suicide.” There is no record that Culver ever saw a psychiatrist while he was detained.

In the N-wing, officers were required to walk by each cell at least every 30 minutes. Jail logs from that day show that a guard noted he’d performed the required rounds. Days later, a state jail inspector began to look into the death. She watched hours of surveillance video and found that the inmates had been left unattended for most of the day. Culver had draped a towel over his window to hide himself from view, but it didn’t matter; nobody had tried to look in. Culver was left unmonitored for two and a half hours before the discovery of his body. The guard later told Texas Rangers investigators that he’d falsified the logs, but he said a supervisor, knowing that the guard had not completed his rounds, instructed him to stay at work until the log “looked right,” which the guard understood to mean he was expected to “back-fill” the paper to make it appear he’d done his job properly. Two days after the death, LaSalle Corrections fired the guard. A Texas grand jury declined to indict.

Captain Armstrong wouldn’t discuss Culver’s death, telling me I should ask LaSalle, but he stressed that failing to perform cell checks “is not an option. Our job is to make sure that they’re healthy and they’re alive, and so you have to do your walk-throughs to make sure they’re breathing.” (LaSalle did not respond to repeated requests for comment.)

Yet for many officers at Harwell, forging logs was an implicit expectation of the job. Three former prison guards and a former lieutenant who worked at Harwell told me it was regular practice to “pencil whip” the logs in a facility they said was perpetually understaffed. They said supervisors were more concerned with making documents look right than enforcing proper rounds. The former lieutenant, Caleb Sellers, told me that while he’d never personally changed logs, it was routine because tired, overworked officers just weren’t making the rounds and faced no pressure to do so. “It’s not a thing where they’re making people do their jobs,” Sellers said. “It’s a thing where they’re making people fix the paperwork, so it looks like the job’s done.”

In part because they disproportionately house people diagnosed with serious mental illnesses, county jails have rates of suicide 2.5 times higher than the general incarcerated population. The fate of Marshals detainees is no better. Suicide took the lives of at least 47 of the 158 detainees who died in the three-year period for which we have records. But the Marshals appear to have done little to ensure that the county jails they contract with implement stringent suicide prevention measures. The agency has a prevention training document, which suggests that correctional officers perform cell checks on suicidal inmates at intervals of 15 minutes. Yet the Marshals’ own annual inspection form notes a requirement for cell checks only twice an hour, and the binding agreements that the Marshals sign with local facility operators require only that “the level of care inside the facility should be the same as that provided to state and local detainees.” In Texas, where the Marshals contract with dozens of jails, state rules require checks on suicidal detainees every 30 minutes.

In the days after Culver died at Harwell, a Marshals deputy wrote up a summary of events surrounding his death and concluded that “none of Culver’s suspect actions and statements were reported [to] the Marshals Service.” That was all; the agency had apparently washed its hands.

Yet just six months before Culver’s death, a man named Michael Martinez, who was being held on state charges and a
federal detainer, was found hanging in his cell at Harwell. That day, three hours had passed without a cell check. Texas state jail inspectors found that the three guards responsible for performing those checks had altered the logs. The guards were charged with tampering with government documents; a civil case brought by Martinez’s family is pending.

The Tom Green County Jail, where Isac Garcia-Wislar collapsed, also ignored signs that a Marshals detainee was suicidal. When 40-year-old Michael Redente was detained in 2015, the agency knew that he’d tried to kill himself four months earlier. Less than 24 hours after he was detained, he committed suicide. Inspectors from the Texas Commission on Jail Standards wrote to the county about the guards’ failure to treat Redente as a high-risk detainee, saying that intake forms conducted by the jail itself and information provided to the jail by the Marshals “should have been more than enough to initiate additional precautions.”

When prisoners die, the Marshals district office is required to notify headquarters, but there’s no firm investigatory process. The Marshals often issue “prisoner death reports” after its detainees die in local jails. But these reports, several of which I’ve obtained through my open records lawsuit, fail to note potentially deadly medical care failures that the independent prison doctors I consulted were easily able to identify.

The review that the Marshals conducted after Isac’s death, for example, is a little over one page long and contains no record of an independent investigation of his death. It does not appear that the Marshals interviewed medical workers involved in his care.

I reached a former Tom Green jail nurse familiar with the case. The nurse said that it would have been against protocol to bow to the sergeant who didn’t want to send Isac to the hospital. The nurse added that Isac’s complaints may not have been fully appreciated because he spoke Spanish.

According to the former Marshals official who was involved with detention oversight and contracting, the deaths themselves should have prompted the Marshals to remove its detainees from the facility. “That is the kind of thing that should lead to the Marshals pulling their detainees out,” he said. But the agency does not maintain hard-and-fast triggers for removing detainees or ending detention agreements, according to several former Marshals officials. “Decisions to remove federal prisoners from a detention facility are made on a case-by-case basis,” Drew Wade, the agency’s spokesperson, wrote in an email. But even in the wake of Martinez’s and Culver’s deaths, the detainee population at Harwell has fluctuated between 100 and 350 people a day, an arrangement that was worth $3–$5 million a year to LaSalle, the private operator. (In October, McLennan County took over jail operations, and that money will go to it.)

Despite the deaths and failed state inspections, Captain Armstrong told me, the Marshals “haven’t voiced anything to us” about Harwell. Correspondence between McLennan County and the Marshals shows no sign that the Marshals were in touch with the county about the dangerous problems at Harwell. (The Marshals did not reply to questions about any contact they may have had directly with LaSalle.)

Marshals officials stress that the agency is often in a bind because it needs access to beds in close proximity to federal
courthouses. When I asked Wade why the agency does not impose more stringent standards, he said, “They have to abide by the laws of their jurisdiction; their state and local laws and standards and regulations… That’s where we are. I mean, you have to understand that the Marshals Service is responsible for housing about 50,000 federal prisoners every day.” In 2013, the Justice Department’s inspector general characterized the Marshals’ position this way: “Higher standards for utilizing local jail facilities must be weighed against the willingness of local jail facilities to undergo such inspections and to contract with the USMS.”

But former Marshals officials argue that logic is flawed. None could recall a case where making demands on a jail had led local officials to withdraw from an agreement. The balance of power, they said, is squarely with the Marshals because cash-strapped counties depend on them for revenue to run their jails.

Noel March, the former US Marshal for the District of Maine, said that sheriffs facing budget troubles routinely asked him to send more federal detainees. He said that while he never assented to such requests, they showed how dependent jails are on federal dollars. When he needed change at a county jail, March said, he had the leverage to make it happen.

Robert Almonte, the Marshal for the Western District of Texas for six years, said that since the agency paid “good money” for bed space, “we had power that they would respect.” He said the one time he pushed a facility to correct dangerous failings, and pulled some detainees out, the facility corrected course with haste.

When the county was looking into taking Harwell away from LaSalle, Captain Armstrong did the math. He concluded that if the county wanted to run the facility without federal dollars, it would have to raise taxes or find a new source of funds.

“There is a missed opportunity here,” said Jack Hildebrand, who served for 21 years in the US Marshals, including as the head of Prisoner Operations in 2012, and now oversees compliance for a police department in Texas. “The counties want the money the Marshals pay them, and in many places they are eager to provide extra service to the Marshals. Yes, they could be exerting more leverage. They should be pushing harder.”

The marshals we see in movies chase fugitives or track bandits. But most real-life deputies typically spend their days doing court security or transporting detainees. They get less than half a year of training, almost none of it focused on jail operations. Yet these rank-and-file deputies are charged with overseeing compliance at the jails it uses. Wade admitted that “the deputy US Marshal providing the inspection is not a subject matter expert of detention and jail operations. They receive the basic on-the-job training on general facilities operations and conditions of confinement.”

The 13-page form used to conduct these annual inspections, the USM-218, is intended to “ensure the safe, secure and humane care and custody of those prisoners,” the Marshals’ former acting director, David Harlow, told Congress. But unlike typical federal prison inspections, which involve a team of experts who dig through prison files, interview staff and inmates, and observe prison operations, the Marshals inspection is designed to be performed by a deputy over the course of a few hours. The form consists mostly of checkboxes, and in some cases deputies appear simply to rely on jail authorities to provide the information, without corroborating it. Wade called the 218s “cursory periodic inspections” meant to ensure compliance with “minimal acceptable conditions for basic essential services.”

He added that if deputies see problems when visiting the jails, they flag those issues to their supervisors. And several former and current Marshals told me that when they became aware of unsafe conditions in local jails, they would call or visit jail administrators to press for a change. But those direct engagements appear rare.

The agreements that the Marshals Service signs with local governments say the “findings of the inspection will be shared with the facility administrator in order to promote improvements.” Noel March, the former US Marshal from Maine, said that is not what actually happens. “The deputies are not trained to know if a jail is operating constitutionally,” he said. “We could have deputies doing this oversight work trained to do it, everywhere. But they don’t know how.”

The retired Marshals official had stronger words. “How the hell is a Marshals deputy going to know how to review medical care? How does a deputy know that? They don’t,” he said.

Starting in 2015, the USM-218 included a series of “tips” that appear to serve as a tacit acknowledgment that deputies are ill-equipped. One tip, for example, reminds deputies to “review medical records” to ensure the intake screening was performed. Nowhere is there a suggestion to review
cell-check logs or surveillance video—let alone to compare the two. And the forms fail to ask for such vital data as the number of deaths.

If that weren’t lax enough, the inspections are routinely announced ahead of time, according to several Marshals officials. Former Harwell guards told me that each year, the day before the Marshals deputy was expected to arrive for the inspection, inmates and officers would be directed to scrub the facility. Harwell would “kick it into high gear when they hear the Marshals are coming,” a former guard told me. “That’s when they do it by the book, by protocol.” If the Marshals aren’t coming, “everything is lax and the facility is dirty.” Asked whether facilities are given advance notice, the Marshals spokesperson said, “I don’t know. Are they scheduled or are they pop-ups? I don’t know. I can’t answer that.”

The USM-218s are striking because of how little they tell us about facility operations. Information as fundamental as the total number of detainees held is sometimes wrong, and tallies of assaults or suicides in some cases conflict with inspections conducted by other agencies. In one Ohio facility, a Marshals inspector noted there had not been a single suicide attempt in 2018, while a separate federal report revealed there had been dozens of attempts. The USM-218s for one upstate New York jail found it “compliant” in its health care operations, even as state inspectors logged repeated and deadly failures in the facility’s medical care, calling it one of the state’s “worst offenders.” In Georgia, at a privately operated county detention facility, the Marshals repeatedly issued rosy reports even as ICE, which also houses detainees in the jail, found the facility deficient in two-thirds of the areas its inspectors examined, from health care to the operation of solitary confinement.

According to Jonathan Smith, the former Justice Department official, the Marshals’ paltry oversight has sent a message that “everything’s all right” to negligent county jails, with corrosive consequences. For five years Smith was head of the Justice Department’s Office of Special Litigation, a section of the Civil Rights Division, which conducted investigations that uncovered flagrantly negligent medical care, abusive guards, excessive use of solitary confinement, and other violations of detainees’ constitutional rights in local jails.

If those facilities held agreements with the Marshals, Smith’s team, as part of their investigation, would review past Marshals inspections. In case after case, Smith told me, those inspections “missed everything.” The 218 reports, he said, are “useless pieces of paper.”

But the Marshals’ clean 218s supplied derelict jails with plausible cover, he said. “The localities where we were investigating, and looking into serious violations, would say to us, another Department of Justice agency, ‘How come you have a problem with us when the US Marshals have said we’re fine?’ The lack of oversight was giving them permission to keep on as they were.”

Smith pointed to the case of Maricopa County, Arizona, where nearly a decade ago, Joe Arpaio, the notorious sheriff, came under investigation by the Justice Department for abusing detainees. In an attempt to defend Arpaio, the sheriff’s lawyer held up the Marshals’ clean jail inspections. “These reports are just further evidence that the DOJ’s Civil Rights Division has gone rogue,” Arpaio’s attorney, Robert Driscoll,
Deadly Detention (cont.)

told the Wall Street Journal, “to the point of ignoring the findings of federal law enforcement and other components of the DOJ itself, in its politically motivated pursuit of the sheriff.”

It’s not that the Marshals have never removed detainees from jails. In extraordinary instances, such as when Smith’s office released negative findings, they did. The problem, according to Smith, was “they would wait until after the findings came out. They’d never do so proactively.”

But even when the Marshals’ annual reviews do reveal major problems, the agency still hasn’t pulled detainees. Of the 259 annual audits we analyzed, at least 10 (some at the same facilities) indicate potential medical understaffing; 45 show extraordinary numbers of prisoners assaults—in one case, 869 in a single facility, California’s Fresno County Jail, in a single year; at least 11 show noncompliance with the 259 annual audits we analyzed, at least 1 in every 20 detainees. But there appear to be no consequences.

In Texas, the Marshals’ lack of accountability comes into sharp relief. In at least a dozen facilities for which we have records, the Texas Commission on Jail Standards, told me. “You get what you paying for.”

Wood, head of the Texas Commission on Jail Standards, told me. “You get what you look for.”

Last November, the Cleveland Plain Dealer reported the findings of a damning inspection of Cleveland’s Cuyahoga County Jail, where the Marshals housed an average of about 30 federal detainees a day at a cost of close to $800,000 a year. Basic necessities, including meals, were withheld as punish-
ment. Vermin were seen running around the food services area; a cell meant for two people was packed with a dozen; juveniles were housed alongside adults; and low-level medical staff were operating without credentials or were performing tasks for which they were clearly unqualified.

The failures had been documented by a team of Marshals officials, FBI agents, and prison facility specialists who had arrived at the jail unannounced and spent several days poring over paperwork, reviewing medical files and logs, and interviewing staff and detainees. But this thorough investigation only happened because Cuyahoga County had requested it following the deaths of seven inmates over a year.

A month earlier, a Marshals deputy filed an annual USM-218, which noted compliance in nearly every area of jail operation. Whereas the investigation found that 55 people had attempted to kill themselves in a year, the Marshals deputy had logged zero. The investigation discovered juveniles housed with adults, while the USM-218 noted the facility had proper policies for detaining children. The investigation discovered that sick inmates had been denied treatment, while the USM-218 found no sign of trouble in the provision of medical care.

Once the review was made public, the US Marshal for the Northern District of Ohio, Peter Elliott, called the jail “one of the worst in the country” and promptly pulled all federal detainees, along with the money that the Marshals paid the county for beds. He questioned his own agency’s inspection regime: “I don’t like the way this process is set up,” Elliott told the Plain Dealer. “It doesn’t make sense that you go in and get things from the county and it makes it seem like everything’s alright, when it’s not.”

This sort of rigorous inspection was at one point set to be implemented across a broad swath of facilities that hold Marshals detainees. In the late 1990s, as the Marshals and the Immigration and Naturalization Service (as ICE was then known) were competing for bed space, the Justice Department, which oversaw both agencies, determined it needed a centralized system for contracting and monitoring facilities. In 2001, the Justice Department opened the

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Deadly Detention (cont.)

Office of the Federal Detention Trustee to implement “a DOJ-wide detention monitoring policy” and “ensure deficiencies are corrected in a timely manner.”

A new tool, the Quality Assurance Review, was created to evaluate facilities by a list of more than 1,000 standards. Teams of experts took days to interview staff and detainees and evaluate files, logs, and other records to compose lengthy narrative descriptions of operations. The Detention Trustee proposed performing the QARs, used to monitor private prisons for compliance with federal contracts, on any facility that held at least 200 federal detainees. The audits would have covered at least half of all Marshals detainees nationwide. “The idea was that no detainee would be held inside a facility that wasn’t monitored and accounted for,” said a former senior OFDT official. In the wake of detainee deaths that appeared questionable, the office would also sometimes draft After Action reports, which meticulously documented the care each detainee received and any medical or mental health care failures or correctional staff actions that may have contributed to the death.

But after 9/11, immigration enforcement was moved under the Department of Homeland Security, and the OFDT was limited to overseeing the Marshals alone. According to a 2013 Inspector General report, the Marshals resisted efforts to force jails to clean up their acts. The OFDT concluded that its oversight efforts were “futile,” and the office was absorbed by the Prisoner Operations Division inside the Marshals Service itself. “The Marshals were fighting tooth and nail with the Detention Trustee, and what do you think happened when OFDT got put inside the Marshals?” the former official told me.

The agency’s posture on oversight reflects fears about legal liability, according to the IG report. Were the Marshals to impose rigorous inspections and stringent standards on jails and continue to house detainees in facilities that failed to comply, the agency could be vulnerable to lawsuits, the thinking went. But if the agency imposed only baseline standards and cursory checks, responsibility for bad conditions would lie elsewhere. “If they said they are responsible, then they are liable,” said the former official. “They didn’t want liability, so they set it up so they weren’t responsible.”

The Prisoner Operations Division still performs quality assurance reviews on about a dozen private facilities under contract with the Marshals. Yet even these, according to a deeply critical 2017 Inspector General report, rarely spur the Marshals to impose consequences. Between 2006 and 2017, the report found, the Marshals did not once impose a financial penalty on a failing private facility. The IG report focused on an understaffed facility in Leavenworth, Kansas, run by CoreCivic, where “significant issues” went “unaddressed for extended periods of time.” The report slammed the Marshals for failing to stop cell overcrowding after CoreCivic was discovered to have secretly placed extra bunks in two-person cells. Even after serious failures had been documented, the Marshals didn’t force CoreCivic to change.

Leavenworth was troubled in other ways. A QAR audit from around the same time, obtained through the Freedom of Information Act, documented 28 individual “deficiencies,” including a failure to ensure that solitary confinement was not imposed on detainees for more than 30 days without the approval of a senior jail administrator, or on mentally ill detainees without providing them access to psychiatric treatment, or on pregnant detainees without proper checks from administrators. Despite these deficiencies, Leavenworth received a passing grade. A CoreCivic spokesperson pointed out that the 2017 report was “by far more focused on various recommendations for the USMS regarding appropriate contract oversight” and “that the USMS has chosen to partner with us at Leavenworth for nearly three decades is a testament to the quality of service we provide there.”

And across the country, Marshals QAR inspections have repeatedly documented decay and neglect at private facilities. In Queens, New York, GEO Group operates a 241-bed facility on contract with the Marshals. The QAR inspectors flunked it in 2015, in part for allowing medical workers to perform outside their licensure and because they’d discovered a “significant insect infestation [that] continues to plague the food service kitchen.” In 2019, the Marshals signed a new $187 million up-to-10-year contract. (The facility passed subsequent inspections.) In 2014 and again in 2015, Marshals inspectors found that a medical unit in a 1,000-bed Colorado GEO facility called the Aurora ICE Processing Center, used mostly to hold immigration detainees but also dozens of Marshals detainees, was in crisis. Chronically sick detainees were not provided ongoing care from the facility doctor, and detainees were not consistently evaluated within two weeks of arrival. Medical workers reported an ongoing climate of “abusive, caustic and unprofessional treatment” from correctional officials in the facility. (GEO declined to comment.)

Despite the bright light that journalists and advocates have cast on private prisons, the Marshals’ role at these facilities has received scant notice. Around the corner from the Willacy County Jail in Texas, where Jose González Rodríguez died after the fall from his bunk, is a set of private prisons under federal contracts. In one, El Valle Detention Facility, detainees had complained of negligent medical care, abusive guards, and squalid conditions for years. In 2011, after reports emerged of widespread sexual abuse in the facility, ICE ended its contract with the Management and Training Corporation. (MTC told me it was unrelated to the allegations of abuse.) The federal Bureau of Prisons later signed its own contract to
house prisoners in the facility. But in 2015, after federal prisoners set fire to rows of Kevlar tents, the prison was declared uninhabitable, and BOP ended its contract with MTC.

Yet an adjacent facility also run by MTC, the Willacy County Regional Detention Facility, slipped under the radar. The facility holds as many as 600 Marshals detainees, and just a year after the riot next door, the QAR inspection team declared it “deficient.” “USMS accepted our corrective action plan for the four areas found deficient, and we corrected the issues immediately,” Issa Arnita, an MTC spokesperson, said. But the auditors continued to log other failures in each of the following three QAR reports, including repeated noncompliance with restrictive housing rules.

In late 2016, in part because of the kind of dereliction that led to the Willacy riot, the Justice Department announced it would end its contracts with a dozen private prisons that held noncitizens convicted of federal crimes. But this order was not extended to the Marshals’ private pretrial detention facilities, even as they failed inspections.

The Trump administration reversed the Justice Department’s order and has expanded its use of private lockups. This year, the Marshals signed a contract with the Eden Detention Center, in Texas, one of the Bureau of Prisons’ private facilities that the Obama administration had walked away from. And in June 2018, the agency finalized an agreement to begin housing detainees in a CoreCivic-run facility in Tallahatchie County, Mississippi, even after the Marshals’ own “pre-occupancy” QAR inspection found multiple failures to comply with the contract’s terms.

Shortly after the Marshals began using the Tallahatchie County Correctional Facility, ICE quietly began sending its own detainees, mostly asylum seekers, to the facility too. ICE does not have its own contract with Tallahatchie County or CoreCivic. Instead, detainees are held there under a subcontract of sorts, a rider that allows ICE to piggyback on the Marshals’ agreement. Across the country, the lattice of the Marshals’ intergovernmental agreements and private prison contracts with about 1,100 facilities has provided federal immigration agencies with easy access to the beds that DHS has been clamoring for since Trump put immigration enforcement into overdrive. As of 2018, 19 percent of ICE detainees were held under such agreements. By 2019, ICE detained 52,000 people. Even after ICE pulled some of its detainees from the Harwell jail over negligence, the agency used the Marshals rider to continue to house a small number of detainees there.

ICE’s own standards and inspection regimes vary dramatically between facilities. In 2017, the New York Times reported that ICE planned to further relax its standards for facilities that hold immigration detainees for less than one week; the agency would ditch extensive requirements and instead adopt the Marshals’ USM-218 checklist. The proposal has not yet taken effect, but similar plans appear again in the White House’s 2020 budget request.

“The proposal has ICE following the Marshals to the bottom of the barrel,” said Heidi Altman, policy director at the National Immigrant Justice Center. “By imposing weaker standards like the Marshals do, ICE can expand detention with fewer

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barriers. That will lead to greater suffering."

Customs and Border Protection also occasionally uses Marshals facilities for overflow detention of people caught crossing the border, but CBP performs no independent oversight. The Marshals’ prison system offers the only real chance federal authorities have to clean up most bad facilities. But a Marshals spokesperson told me the agency "has no involvement in custody or oversight for the detention of CBP detainees."

The border agency’s use of Marshals contracts has already had fatal consequences. In May 2018, a local jail in Starr County, Texas, made headlines when Marco Antonio Muñoz, a 39-year-old Honduran man who, with his wife and child, claimed to have fled death threats, was found dead in his cell. The day before, Muñoz had been arrested for illegal entry by CBP and separated from his family. Muñoz was visibly in distress, telling border officials that he believed the US officials planned to kill him on behalf of CBP under the auspices of a Marshals agreement.

Two weeks after Muñoz’s death, the Texas Commission on Jail Standards found video that showed officers repeatedly skipping their required rounds, at times letting nearly three hours pass before checking on inmates with mental illness. Muñoz was left unchecked for 46 minutes before he was found hanging in his cell. “Starr County Jail staff members did not conduct thirty-minute checks on Muñoz as is indicated in the logs,” a Texas Rangers investigation found. Muñoz’s wife has filed a lawsuit against CBP and Starr County. Neither would comment, citing pending litigation.

A week before the Texas Commission completed its review, a Marshals deputy filed the agency’s annual inspection of the Starr County Jail. It was clean.

**Project Credits**

*This story was reported in partnership with Type Investigations.*

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**Lethal Prison Electric Fences May Violate International Law**

_by Matt Clarke_

A solicitation of bids last November to refurbish a “non-lethal/lethal” electric fence surrounding a federal Bureau of Prisons (BOP) prison in Tucson, Arizona, resulted in three offers between $3.3 million and $3.8 million and some questions over whether the electric fences comport with international law.

The trend toward installing potentially lethal electric fences around prisons started in the 1990s as a cost-cutting measure. California installed its first of 25 lethal electric prison fences at the Calipatria State Prison in 1993. The lethal Calipatria fence delivers 500 amperes at 4,000 volts.

The fences were installed not because of a problem with escapes — which dropped by 84% between 1972 and 1991. Rather, the issue was saving an estimated $42 million annually by eliminating tower guards.

Ironically, the California Correctional Peace Officers Association, the union for California prison guards, supported the legislation that authorized the electric fences. The union later changed its mind after numerous guard positions were cut. Nonetheless, the fences were installed at 25 of California’s 33 prisons.

Massachusetts and Indiana installed electric fences before California. Alabama, Arkansas, Nevada, and Missouri have used electric prison fencing for decades.

The BOP began an electric fence program for at least seven of its prisons in 2006, adopting the “non-lethal/lethal” variety of electric fences in which the first contact with the fence delivers a non-lethal electric shock, but a second contact results in a lethal shock at two to three times the voltage used in electric chair executions.

And counties can lease electric fences for their jails. Following the escape of a minimum security prisoner who cut a hole in the tent-like material of his cellblock and scaled a fence in 2015, Greene County, Pennsylvania, decided to lease an electric fence from the Electric Guard Dog Company of Columbia, South Carolina, at a cost of $975 a month.

“The yearly costs for the fence will be $11,700,” said Warden Harry Gillispe. “The cost of just one officer, with salary and benefits, would be $36,000 a year.”

Therein lies the fact and fallacy of electric fences, preventing escapes is often
the rationalization used to erect them, but reducing employees is the reality after they are installed.

One issue with electric fences is at times they fail. If the guards who monitor the perimeter are replaced by electric fencing, who will watch the perimeter when the electric fence is down? This is not a theoretical question as internal documents from the Crossroads Correctional Center in Cameron, Missouri, showed one zone of the electric fence was offline May through July of 2018. Prisoner unrest in May 2018 caused massive damage at Crossroads.

There also is the question of whether lethal electric fences violate international law.

“Under international law, guards standing on towers — or any automated system — must weigh whether or not the use of lethal force is strictly necessary,” said Human Rights Watch U.S. Programs director Alison Leal Parker, who asserted that “the use of lethal force under state and federal law in the U.S. contradicts international human rights law.”

“There are times when technology can be rights-respecting and even rights-protecting in a way that human decision-making may be flawed,” Parker added. “But there are also many, many instances — and I would argue that this is one — where the need to assess whether killing someone is strictly necessary cannot be done by an automated fence.”

“The issue has never really reached the Supreme Court,” said Nila Bala, an associate director for criminal justice and civil liberties at the public policy research nonprofit R Street. “The Eighth Amendment is what they would look at to see if [the electric fences] are legal. The law is fairly deferential about what happens in correctional facilities.”

That means that a legal challenge to lethal electric fences would likely be determined by whether the court believes it constitutes “cruel and unusual” punishment, not whether it clearly violates international human rights law.

A final issue with lethal electric fences is the toll on wildlife. In the first five years of California’s electric fence program, about 3,000 migrating birds were electrocuted. This included 144 burrowing owls, 111 loggerhead shrikes, and 10 red-tailed hawks. The most likely avenue for a successful legal challenge would be on behalf of any endangered or threatened species of animals killed by the fences.

Alternatives to lethal electric fences are readily available. One is non-lethal electric fences that deliver a shock sufficient to deter or even incapacitate, but not kill a potential escapee. Another is sensor fencing that alerts guards to intrusions near to or upon the fence. This allows a human to determine the appropriate response to the intrusion.

Sources: qz.com, latimes.com, washingtonpost.com, kq2.com, heraldstandard.com

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Anyone who has been arrested by the federal government can attest to the experience of being held in custody by the U.S. Marshals Service. While the federal Bureau of Prisons operates a few pretrial detention centers (aka jails) in large cities, the vast majority of federal defendants awaiting trial are officially held in the custody of the Marshals Service, which generally contracts the caging to local jails. Only rarely does the treatment of federal pretrial detainees in the Marshals’ custody come to light and this month’s cover story is a much needed examination of what happens to its prisoners.

For various reasons, there is little litigation by those injured and killed in Marshals’ custody, which closes one of the few windows into that carceral world. Seth Freed Wessler’s long overdue cover story this month is a much needed review of how the Marshals Service handles prisoners in its legal custody. Along with the massive expansion of the American police state in the past 40 years has been the concurrent explosion of its prisoner population, who are held by an alphabet soup of thousands of police agencies at the city, county, state, regional and federal level. These agencies are authorized to kill and detain people, usually with little to no supervision and virtually zero accountability.

In editorial developments, Alex Friedmann is no longer with us as PLN’s managing editor. I would like to welcome PLN’s new managing editor, Ken Silverstein. Ken has been one of PLN’s earliest readers and supporters. I first met Ken back in 1994 when I was trying to break a story about Jack Metcalf, a Republican candidate for Congress, who was using prison slave labor to phone campaign on his behalf on a “tough on crime” platform. Washington state media were not interested in the story before the election but Ken was. At the time he was the editor of CounterPunch. He broke the story there in January 1995 and it quickly gained national attention.

Ken has over 30 years’ experience as an investigative reporter and editor whose work has appeared in dozens of publications, including the Nation and the Los Angeles Times. He founded CounterPunch and is the former Washington Editor of Harper’s as well. While Ken’s forte has been political and corporate corruption, he has reported extensively on criminal justice issues as well. I am looking forward to working with him.

PLN subscribers should have recently received a free sample copy of our other publication, Criminal Legal News. Subscribing to both publications provides a complete overview of the American police state from surveillance, to policing, detention, prison, probation, parole, the death penalty and much more. Our latest book, The Habeas Citebook: Prosecutorial Misconduct by Alissa Hull, continues to generate excellent reviews and is the best resource available for anyone seeking post-conviction relief on claims involving misconduct by prosecutors.

Lastly, HRDC continues its efforts to end the financial exploitation of prisoners and their families by the government and their corporate collaborators. If you have been released from a prison or jail and had a debit card foisted on you, which you were forced to use and the card issuer charged you fees to use your own money, we would like to hear from you as we are working to end this practice. All CDCR prisoners in California are issued a JPay debit card that hits prisoners with exorbitant fees. Again, we want to end this practice so if you have been issued a JPay debit card in the past two years please contact me and we can help.

Enjoy this issue of PLN and please encourage others to subscribe!

From the Editor
by Paul Wright

Biden’s Current Prison Reform Stance Counter to His Abysmal Record
by David M. Reutter

After decades of leading the charge during the tough-on-crime era, Democratic presidential candidate and former U.S. Vice President Joseph R. Biden, Jr. is trying to fashion himself as a champion of prison reform. Since July 2019 his campaign website has included proposals to abolish the death penalty, legalize marijuana use and reform sentencing laws, as well as a push to “stop corporations from profiting off of incarceration.”

But that position is far from the one he took as a senator in 1989, at the height of a crime wave that led to many of the country’s anti-drug policies which encouraged mass-incarceration. Back then Biden went on television to criticize as inadequately harsh the plan of President George H.W. Bush to escalate the war on drugs.

“Quite frankly, the president’s plan is not tough enough, bold enough, or imaginative enough to meet the crisis at hand,” said Biden, who wanted not only tougher penalties for drug dealers, but also to “hold every drug user accountable.”

In criticizing Bush’s plan, Biden said it “doesn’t include enough police officers to catch the violent thugs, not enough prosecutors to convict them, not enough judges to sentence them, and not enough prison cells to put them away for a long time.”

As head of the Senate Judiciary Committee in the late 1980s and early ’90s, Biden not only supported the war on drugs that led to mass incarceration, he co-authored many of the laws that led America to have the world’s highest per capita prison population. He pushed The Comprehensive Control Act of 1984, which expanded federal drug trafficking and civil asset forfeiture without proof of guilt, and the Anti-Drug Abuse Acts of 1986 and 1988 that increased crack cocaine and overall drug offense penalties. The Violent Crime and Law Enforcement Act of 1994, which increased drug possession sentences and increased prison funding, was an achievement he hung his political hat on. His 2008 presidential campaign website called that Act the “Biden Crime Law,” and it proudly touted the funding in the law that encouraged states to effectively increase...
their prison populations by paying them to build more prisons.

In 2016, Biden was asked on CNBC if he was ashamed of that law. “Not at all,” he responded. “As a matter of fact, I drafted the bill, if you remember.” While acknowledging he’d change parts of the law, he maintained that “by and large what it really did, it restored American cities.”

Biden did distance himself a bit from his tough-on-crime record in 2008 when he backed the Second Chance Act, which provides monitoring and counseling services to former prisoners. He also supported the Fair Sentencing Act of 2010. It reduced the disparity between prison sentences for crimes involving crack and powder cocaine from 100-1 to 18-1. In January 2018, Biden said the disparity “was a big mistake when it was made. We thought, we were told by the experts, that crack you never go back. It was somehow fundamentally different. It’s not different.” His son Hunter Biden was a well-known crack user who has been to rehab several times, but not prison.

Then, in July 2019, as he was ramping up for a run in the 2020 presidential race, Biden released a sweeping criminal justice reform plan. In addition to decriminalizing marijuana and ending the death penalty, it proposed eliminating mandatory minimum sentences for nonviolent crimes, abolishing private prisons, getting rid of cash bail, and discouraging the incarceration of children. He also says he will create a $20 billion grant program to encourage states to reduce incarceration and crime.

Biden’s record worries criminal justice reformers that if crime rates soar again he will revert back to his tough-on-crime stance. “Even if Biden had subsequently learned the error of his ways,” wrote Branko Marcetic for Jacobin, “the rank cynicism and callousness involved in his two-decade-long championing of carceral policies should be more than enough to give anyone pause about his qualities as a leader, let alone a progressive one.”

Most direct criticism from Biden’s rivals for the Democratic presidential nomination was confined to three who have now dropped out of the race: Senators Cory Booker of New Jersey and Kamala Harris of California, as well as Obama administration Secretary of Housing and Urban Development Julian Castro of Texas.

But in August 2019 Senator Elizabeth Warren took a not-so-subtle swipe at her opponent by calling for repeal of the 1994 crime bill that Biden authored. Without naming the former vice president, Warren called the law a “punitive ‘tough on crime’ approach” that was “wrong.”

“It was a mistake,” Warren added, “and it needs to be repealed.”

And in a January 2020 op-ed for The State, a South Carolina newspaper, Nina Turner, a former state senator and campaign co-chair for Senator Bernie Sanders of Vermont, said that Biden had “repeatedly betrayed black voters to side with Republican lawmakers and undermine our progress.”

Criticism of Biden’s criminal justice positions have been a key factor hurting his presidential chances. The one-time front runner performed poorly in the Iowa caucuses and New Hampshire primary and is no longer favored to win the Democratic Party’s nomination.

Sources: theintercept.com, vox.com, essence.com, NPR.com, nytimes.com, washingtonpost.com, commondreams.org, dallasnews.com, politico.com
Oregon Lawmakers Prohibit Prison and Jail Telephone Kickbacks

by Mark Wilson

“T
his isn’t just an issue of economics,” said Oregon Senator Sara Gelser, the chief sponsor of a bill prohibiting jail and prison telephone contract kickbacks that passed nearly unanimously.

“This is really about the humanity of the people that are in our prisons and the ability of people to remain connected to the people that they love, the people that they need to be successful in their programs in prison.”

A February 2019 study by the non-profit Prison Policy Initiative (PPI) found that prisoners as well as pre-trial detainees in the U.S. are charged up to $22 for a 15-minute phone call, though that rate has been declining over time. As previously reported in PLN, some companies which offer video-visitation – now available at over 500 prisons and jails in at least 43 states – require prisons to restrict in-person visitation, as well.

“The jail phone industry is broken largely because jail phone companies compete for monopolies,” said PPI’s Wanda Bertram. “They do this by sharing revenue with the facilities themselves... That means part of the contracting process is distorted by collusion between jail phone companies and facilities.”

During a February 2019 public hearing on Senate Bill 498, Gelser noted that “this is the third session in a row I’ve sponsored this bill, first time it’s been referred to judiciary and the first time it’s gotten a hearing.” The legislation ultimately passed the Senate by a 27-2 vote and the House by a vote of 54-1.

“Exploitive prison phone call rates actively frustrate support systems that are known to keep folks out of the prison system,” observed Mary Sofia, then legislative director for the Oregon Criminal Defense Lawyers Association (OCDLA).

“Over several decades, numerous studies have shown that family contact and communication reduce recidivism,” Sofia told lawmakers, citing a Prison Legal News article written by Alex Friedmann. (PLN, Apr. 2015, p. 24).

OCDLA believes that families should not be forced to endure substantial economic burden in order to maintain minimum communication with those they love,” said Sofia. “We can better support and protect Oregon families and reduce recidivism rates in the Oregon prison system.”

Senator Gelser agreed, recognizing that “contact with family improves performance and compliance and success both inside and outside. So just providing basic access to families is so important.”

The committee also heard from Rebecca Whetstine whose son, Ga-lo Vann (aka Joshua James Vann), is an Oregon prisoner. Whetstine offered extensive testimony about the high cost of prison telephone calls and the burden those costs place upon prisoners and their families.

She also informed the committee of a far-too-common problem, noting that her son frequently cannot even make a call because the Telemate voice biometric system is so bad that it will not accept his voice. Other times, the call quality makes it impossible to hear her son.

“It is news to me, the quality of the phone service and the quality of the phones,” admitted Gelser. “I think that’s something really important that we can explore further. It doesn’t matter what the price is if they don’t work.”

Senator Shemia Fagan agreed, saying the problem had to be solved. “Your testimony is some of the most compelling I’ve heard in my four-plus years as a legislator,” said Fagan. “My mom was incarcerated for much of my childhood so this is something that is very important that people are able to communicate with their families.”

Nevertheless, Marion County Sheriff Jason Meyers testified on behalf of the Oregon Sheriffs Association, claiming that small counties are dependent upon kickbacks from prisoner telephone charges to fund jail services. “Any revenue that a county gets... goes into the inmate welfare account that is for the greater good of all the people that are in custody,” Meyers claimed.

Lawmakers weren’t having it. “The way that I understand this, and correct me if I’m misunderstanding, is that essentially an inmate that is making a telephone call is taking on the burden of paying more than it costs to provide the services that allow that call to be made for a substandard service, for the purpose of paying for things for other people, that their communication with family, their attorneys, the media is used as a revenue source for items they may or may not participate in and that is therefore not equally distributed across all people,” summarized Gelser. “Why are we basically taxing very poor people to talk to their families to pay for things that they might not even use?”

Senator James Manning, Jr., chairman of the Public Safety Subcommittee of Ways
and Means, echoed Gelser’s incredulity. “This is a small part of a larger problem, which is total criminal justice reform,” said Manning. “My major concern about this is that when you have people that are disenfranchised, that don’t have any money that can’t make any phone calls, how this is definitely impacting them.” Manning acknowledged that “our jails are under resourced and we need to provide more for them, but added, “I do have a problem with this particular company and how they are dealing when you are making a dime off the backs of people who are already in a bad condition.”

Failing to appreciate that his talking points were not carrying the day, Sheriff Meyers continued to defend the practice. “I share my diplomatic colleagues’ comments that this feels like an unacceptable system to me,” Fagan told Meyers. “I cannot emphasize enough how compelling I found Rebecca’s testimony and how unacceptable this situation is.”

Gelser agreed. “Correctional facilities ... enter into contracts with businesses that basically pay you,” she noted. “They pay you money so that they can offer very expensive, low quality services to incredibly vulnerable people. So why not just not take the kickback, look for another revenue source and improve the quality of the phone services?”

Sheriff Meyers could not offer an answer, suggesting instead, that he’d “look into it.” Fortunately, lawmakers did not wait for his answer.

Under Section 2 of the bill, the Oregon Department of Corrections (ODOC) is prohibited from entering “into a contract with an inmate telephone service provider that authorizes the department to receive a fee or commission for telephone services provided to inmates” other than the reimbursement of ODOC’s “internal and external costs to oversee and manage the inmate telephone service” and “to pay third party providers.” This is a loophole big enough to ensure both continued high rates and kickbacks to the DOC.

Section 4 addresses jail telephone services, prohibiting “a fee or commission ... other than a fee of five cents a minute or less.” This thus limits to kickback to five cents a minute.

Section 5 provides express per-minute rate limits for jails based on the size of the facility. Prepaid intrastate and interstate telephone calls are capped at $0.21 per minute for jails with less than 350 beds, $0.19 per minute for jails of 350-1,000 beds, and $0.17 per minute for jails with more than 1,000 beds. Similarly, collect intrastate and interstate calls are capped at $0.25 per minute in jails with less than 350 beds, $0.23 per minutes for 350-1,000 beds, and $0.21 per minute for more than 1,000 beds. In all jails, calls to Mexico and Canada are capped at $0.50 per minute while all other international calls are capped at $0.67 per minute. Since telecom companies pay less than a penny a minute for the phone time they resell this locks in massive profit margins for the companies and kickbacks to prisons and jails while giving the illusion of reform.

Any fee or commission received by a jail, city or county for inmate telephone services “must be deposited in the Inmate Welfare Fund Account,” established under section 6 of the bill. That account is to be used for the purpose of providing “items or programs that enhance the lives of inmates, including but not limited to education programs, job training programs, drug and alcohol treatment programs, exercise equipment, televisions, cable subscriptions, electronic law library access, magazine subscriptions, books, board games, microwaves available for inmate use and meals or other food provided for special events.”

The legislation expressly prohibits the use of the Inmate Welfare Fund Account to pay “for regular inmate meals, inmate clothing, inmate medical care, facility maintenance or staff salaries, staff clothing or staff equipment.”

Jails are also required to publish a quarterly report, which must be made available to the public, detailing: (1) a monthly accounting of the total revenue received from the inmate telephone service provider; (2) the total per-minute fees received; (3) the share of revenue received by the jail, city or county; and (4) a detailed list of expenditures during the quarter from the Inmate Welfare Fund. A link to the report must also be placed on the jail, city or county website.

Declaring an emergency, lawmakers applied the legislation “to contracts for inmate telephone services entered into, extended or renegotiated on or after” July 1, 2019.

Sources: Senate Bill 498(2019) & Supporting Exhibits; Recording of 2.6.19 Senate Judiciary Hearing, prisonpolicy.org, badgerherald.com

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Prison Legal News
It’s Time For the Feds To Fund College Education For Prisoners, Again

by Anthony W. Accurso

Twenty-five years after the federal government restricted prisoners from obtaining Pell Grants to pay for higher education while incarcerated, bipartisan support for new legislation reinstating access is gaining ground in the national conversation surrounding mass incarceration.

“Education is to the future for just about anyone and everyone. So we should be embracing these opportunities for brothers and sisters who are behind bars today who will be in our communities and with their families and giving them a means for a purpose … and giving them that kind of opportunity to pursue the next right thing for themselves.”

These words were spoken by Secretary of Education Betsy DeVos at Prison Fellowship’s Justice Declaration Symposium held last September at the Museum of the Bible in Washington, D.C. DeVos encouraged 80 church leaders to lobby congressional offices to support legislation that would restore access to Pell Grant money for prisoners.

“We all need second chances,” she said. “It doesn’t matter if we are ever behind bars or not. We all make mistakes and we all need a chance to be redeemed. I think that this, from my perspective, is really a no brainer, to put in my grandchild’s terminology.”

Prisoners were not always barred from obtaining Pell Grant money for college, but DeVos’ perspective that reinstating this program for prisoners is a “no brainer” highlights just how far our nation has come from the “tough on crime” rhetoric of the late 1990s to the “smart on crime” messaging of today.

Trends in criminal justice are often described in terms of a pendulum that traces a slow arc between extremes, and it is useful to understand where this pendulum has been in order to grasp why this issue has only recently achieved such consensus support.

Some History

By the 1960s, the impact that greater access to college education had on American prosperity fueled momentum to make college affordable for more students.

The Higher Education Act of 1965 created a program to offer undergraduates from low-income families financial assistance for various post-baccalaureate programs. This new system — called Pell Grants, after Rhode Island Senator Claiborne Pell — provided a path out of poverty by increasing access to white-collar job skills. This made the nation’s pool of workers more educated and mobile, which was increasingly necessary after globalization and the opening of new markets (like China) would eventually see America export its manufacturing base abroad.

An expansion of this program at the federal level in 1972 made Pell Grants eligible to the incarcerated. By the early 1990s, there were about 770 programs operating in 1,300 prisons, which provided college-credit courses to approximately 19 percent of federal prisoners and 14 percent of state prisoners.

This system closed its doors on prisoners when Congress passed the omnibus crime bill known as the Violent Crime Control and Law Enforcement Act of 1994. During an era when the country was concerned with high rates of violent crime, politicians ramped up dehumanizing rhetoric about prisoners. Politicians frequently referenced the notion of “super predators” — recidivist, violent offenders who were supposedly beyond redemption — and found new ways to appear tough on crime by supporting anything that seemed to punish prisoners.

Originally proposed by then Senator Kay Bailey Hutchison, a Republican from Texas, the ban, which was at first only applied to prisoners sentenced to life without parole or the death penalty, was applied to all prisoners, regardless of their offenses. But Democrats were on board, too: The bill was signed into law by President Bill Clinton and championed by then-Senator Joseph Biden Jr., later vice president under Barack Obama. Then Congressman Bernie Sanders also voted for it.

The two most prevalent themes of this discussion were that prisoners could not be punished harshly enough by simply incarcerating them, and that educating prisoners somehow diverted extremely limited funds for low-income students, thereby depriving poor, law-abiding students. “We will soon have the best educated prison population in the world — but we will have sacrificed the hopes and dreams of hundreds of thousands of our young men and women, who always have been good citizens,” Senator Hutchison told Congress in 1993.

The result of this ban was that, by 2004, participating in college programs by prisoners was half of what it was in 1991. Those remaining were sustained entirely by state funded programs and private donations.

Though violent crimes peaked in the early-’90s and began to fall through the mid-’90s and beyond, the tough-on-crime attitude driving harsher punishments and mass incarceration continued through to the early years of the Obama administration. While liberal politicians were regretting their tough-on-crime positions and acknowledging the links between poverty, racism, and incarceration, it took the budget-pinching financial meltdown of 2009 to convince fiscal conservatives that simply building more prison bunks was neither effective nor economically sound.

Smart Money

Politicians then began to adopt the notion of being “smart on crime,” which in practical terms, meant justifying spending less money on punishment alone and more money on programs that were shown to reduce costs in the long term — as long as these reforms did not come with a reduction in public safety.

The Obama administration took the lead by pushing for legislation, which began with a pilot program in 2015 called the Second Chance Pell Experimental Site Initiative. Under it, the federal government partnered with 67 colleges in 27 states to provide Pell Grant funding for some prisoners as a test project. By fall 2017, this program was serving 5,053 prisoners, and will provide recidivism data as those prisoners are released back into society.

Recent studies have helped reinforce this push. One study found that, over a three-year period, correctional education can save taxpayers five dollars for every dollar spent on such programs.

A January 2019 study by the Vera Institute titled, “Investing in Futures: Eco-
nomic and Fiscal Benefits of Postsecondary Education in Prison,” shows this is likely money well spent as it found prisoners who participate in post-secondary education in prison are 43 percent less likely to commit another crime.

The Vera Institute study also outlines the potential economic impact of reinstating full access to Pell Grants for prisoners. It found that newly released prisoners would likely collectively earn an extra $45.3 million in the first years after their release as a result of qualifying for jobs that require specialty skills, and the states collectively will likely save a total of $365.8 million each year.

This all could be accomplished with a minimal increase in Pell Grant funding and would not deprive non-incarcerated low-income students who currently rely on Pell. The budget for Pell Grants in 2017 was $26.9 billion, and reinstating full access for prisoners would likely represent a mere 5 percent increase in program funding.

While these figures evince the economic benefits reinstating Pell access for prisoners, the intangible benefits are just as compelling.

**Changing Lives**

Aminah Elster spent six years in jail, from 1977 to 1983, as a minor but she was not given parole for the murder of her stepfather. She had begun classes at UC Berkeley within a year of release. After release, she found a job and went on for Women in Chowchilla, California. She was on a waiting list for two more years before she could take college courses offered at Feather River College.

"Before, I was mentally confined to the few blocks where I grew up. My college-level courses opened up my mind and my eyes to the greater world around me and challenged me to want a better life outside of prison," said Elster. “It was sitting in those very same classrooms that I began to stop assigning my bad choices to others, as I grew acquainted with accountability.”

Elster earned an associate’s degree in liberal arts and humanities and obtained certificates in business and entrepreneurship. After release, she found a job and began classes at UC Berkeley within a year of release.

Charlie Praphatananda was diagnosed with dyslexia and a learning disability in fourth grade, and he was kicked out during his junior year of high school. When he was 20, he participated in a robbery that resulted in a murder and was sentenced to life without parole.

Prison education programs helped him turn around. He earned his GED, then his associate of arts, and became one of Cal State LA’s first students behind bars. “You come to this crossroads where to realize that when they say life without, they mean literally you’re not ever going to get out of prison,” said Praphatananda, “and you have to make that choice of what you’re going to do with your life.”

After 22 years, Praphatananda’s sentence was commuted, a decision largely influenced by his outstanding behavioral record and educational accomplishments. “When I was in and I had life without, I had given up on trying to ever get out,” he said. “To go from that perspective to, I’m out here now — I get to go to college, I get to spend time with my family, I get to work — that is a blessing.”

These programs also change the correctional environment. The prison experience for many simply involves a survive-or-die mentality that perpetuates the cycle of perverse incentives and bad choices that result in disciplinary problems and reincarceration. But studies show that access to college classes makes correctional environments safer, partly because such programs are often conditioned on good behavior, but also because prisoners like Praphatananda yearn for an alternative path.

**The Push**

The Restoring Education and Learning Act of 2019 (REAL Act) was introduced by Senators Brian Schatz (D-Hawaii) and Mike Lee (R-Utah), as well as Representatives Danny Davis (D-Illinois), Jim Banks (R-Indiana), and French Hill (R-Arkansas). This bill would reinstate access to Pell Grants for prisoners, and it has wide-ranging support. Backers include the Association of State Correctional Administrators, Association of American Colleges and Universities, Families Against Mandatory Minimums, ACLU, and the Law Enforcement Action Partnership. The Human Rights Defense Center, which publishes PLN, has pushed for education for prisoners for 30 years and is also a supporter.

Not everyone is on-board with full access, with some entirely resistant and others who want to keep the ban in place for prisoners on death row or who are serving life without parole. “I’m not really sure where this push for Pell is coming from,” Rep. Virginia Foxx (R-North Carolina) said at a recent hearing. Acknowledging the political challenges presented by this legislation, prison college attendee and now former prisoner, Maurice Smith of Baltimore, said, “It’s hard to talk about second chances when my actions didn’t give an individual a second chance.”

But with so many groups on board, there’s a good chance that progress will be made on this issue in the near future. Educating prisoners and preparing them for their eventual release is increasingly acknowledged as necessary since 95 percent of prisoners will one day be released into the community. “I’d rather have people who are rehabilitated and can contribute to society than people who are just rotting in a prison cell,” said Mai Fernandez, executive director of the National Center for Victims of Crime. “There are a lot of offenders who have severe trauma backgrounds. We need to look at them also as victims.”


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**Inmate Mingle**

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Pennsylvania’s Erie County agreed to pay $1.15 million to settle a civil rights action alleging the county jail had a policy that “required a non-medical person to make a medical decision about what to do with someone suffering from a medical emergency.”

The lawsuit was filed by the estate of prisoner Felix L. Manus, 48, after he died following asthma complications. Manus was serving a three-month sentence for failing to pay $750 in child support; he was assigned to the work-release program at Erie County Prison (ECP), which allowed him to work during the day to earn money to pay his child support.

Along with four other prisoners, Manus was employed at the Erie Hunt and Saddle Club on May 30, 2018, “mowing grass, weed whacking, and painting in the hot sun,” the complaint stated. He asked near the end of the shift to switch from mowing grass to painting as he was having difficulty breathing.

Because he suffered from asthma, Manus carried an inhaler at all times. As he completed his work, Manus told another prisoner his inhaler was empty. When guard Joshua Pietas arrived around 4:15 p.m. to take the prisoners back to ECP, he was informed about Manus’ breathing problems and need for immediate medical attention. Nonetheless, Pietas had the prisoners get into the back of the transport van, which made Manus’ condition worse.

Following policy, Pietas called his supervisor and told Manus, “OK, so here’s the deal. My lieutenant said that if you want need [sic] to go to the hospital, you have to do it from back there, but you’re in luck, so you can have fresher air you’re gonna sit up front with me.” The fresher air was air conditioning, as Pietas refused to allow Manus to roll down the window.

Once back at ECP, medical assistance was not awaiting Manus. Instead, even though he could not stand and had labored breathing, he was taken to a small holding cell with “poor circulation.” About 15 minutes later, an ambulance was called to take him to a hospital. Manus was unconscious and on life support until he passed away from “status asthmaticus” on June 11, 2018.

Represented by attorney John F. Mizner, Manus’ estate filed suit. At mediation on June 21, 2019, the parties reached the $1.15 million settlement. See: Manus v. Erie County, U.S.D.C. (W.D. Penn.), Case No. 1:18-cv-00202-SPB. Additional source: erie新闻网.com

Neither Fines Nor Lawsuits Deter Corizon From Delivering Substandard Health Care

In 2018, Corizon Health was the largest for-profit provider of prisoner health care in the country. It contracted with 534 correctional facilities in 27 states holding about 15 percent of the nation’s prisoners. According to the American Civil Liberties Union, Corizon was sued for malpractice 660 times within five years. It was also subject to millions of dollars in fines and penalties by the governmental entities it contracted with — usually for inadequate staffing. Yet the understaffing and substandard health care continues unabated and prisoner deaths continue to mount while Corizon treats fines, penalties, settlements and jury awards as merely a cost of doing business — not as a catalyst for change to providing adequate health care.

Corizon provides prisoner health care for the Kansas Department of Corrections (DOC). Unlike most entities contracting with Corizon, Kansas provided for oversight of Corizon’s performance by a third party. The University of Kansas Medical Center (UKMC) reviews a sample of health-care records at DOC prisons each year. Perhaps that is why Kansas has assessed Corizon penalties of $1 million for underperformance and $6.4 million for short staffing between July 2015 and December 2018.

When asked for records about its provision of health-care services, Corizon nearly always refuses to produce them, citing medical privacy issues. However, the records obtained by UKMC are public records that are available with the patient identifiers redacted. That is how the Kansas City Star was able to investigate Corizon’s health-care services in the DOC.

The Star found that the short-staffing penalties were mostly for lack of psychiatrists. Despite almost 20 percent of DOC prisoners being prescribed psychotropic medications, several prisons went months without reporting any hours worked by a psychiatrist — the person who oversees psychotropic medication and adjusts dosages.

Further, prisoners often complained of the same ailment three or four times without being allowed to see a physician or mid-level health-care provider such as a physician’s assistant or advanced practice nurse — a violation of the contract that requires an appointment with a health-care provider be scheduled if a prisoner complains of the same ailment twice. The most common type of noncompliance with the contract was referrals to health-care providers taking more than seven days. Often, the referrals took weeks or months. The delays in treatment sometimes had deadly consequences.

DOC prisoner Marques Davis, 27, complained for months about growing weakness and numbness in his legs only to have his complaints ignored by Corizon staff. Then he said it felt like something was eating his brain.

Davis was right, but Corizon staff at the DOC’s Hutchinson Correctional Facility continued in their belief that he was faking illness as a fungal growth in his brain progressed, causing his vision to blur, his speech to slur, and his cognition to become so disoriented that he drank his own urine. Finally, on April 12, 2017, Davis suffered a heart attack and was taken to the Hutchinson Regional Medical Center. There, a CT scan revealed “dramatic swelling of the brain sufficient to force the upper part of the brain down into the lower part of the brain.” The next day, he was declared brain dead.

The UKMC records and what happened to Davis show “a clear and consistent pattern of [Corizon] delaying, postponing
or not providing necessary medical treatment,” according to Kansas City attorney Leland Dempsey, who is representing the mother of Davis, Shermaine Walker, in a lawsuit against Corizon. “That’s what this is showing (and) that’s what our lawsuit is all about.”

Corizon is paid between $70 million and $80 million to provide health care services to the DOC’s approximately 10,000 prisoners. Thus far, fines, penalties, and court awards have not taken a large enough bite out of Corizon’s bottom line to cause it to fulfill the terms of its DOC contract.

“Corizon is simply writing off the liquidated damages they’re having to pay as the cost of doing business in this state without doing anything meaningful to improve,” said Eric Balaban, a senior staff attorney with the American Civil Liberties Union’s National Prison Project.

Meanwhile, the Star’s review of 42 months’ worth of medical documents from the prison where Davis died showed 251 of the 452 charts did not meet the standards of the contract with Corizon. That 29.5 percent rate of noncompliance is similar to the statewide rate the Star found. Through-out the DOC, 1,062 of 3,695 charts (28.7 percent) were deficient.

The UKMC documents showed other serious flaws in Corizon’s provision of health care. An El Dorado Correctional Center prisoner was given an antibiotic after reporting to the prison infirmary with an infected insect bite on his arm but there was no follow up. A week later, he returned to the infirmary with a severely swollen arm and suspected antibiotic-resistant staph (MRSA), but was not fully assessed. He was sent away without treatment that night. Later that night, he was admitted into the infirmary where he remained for six days due to “complications from MRSA.”

A prisoner at Hutchinson had a tooth extracted, but the dentist left part of the tooth in the jaw. He went to the prison infirmary with an infected and badly swollen jaw, but was told that was normal and merely given Ibuprofen. A week later, he had to be taken to an outside hospital for medical care.

An Oregon federal judge recently awarded $10 million to the family of a young women who died of heroin withdrawal after Corizon employees ignored her pleas for medical attention. The Southern Poverty Law Center has a lawsuit pending against Corizon over inadequate medical care in Alabama prisons.

Corizon was formed in a 2011 merger of Correctional Medical Services and Prison Health Services (PHS).

In 2012, a federal court of appeals upheld a jury verdict that PHS had a policy of not sending prisoners outside of prison for medical care except in emergencies without clearly defining what constituted an emergency.

In 2018, an Arizona federal court held Arizona prison officials in contempt because, despite their having fined Corizon $1.4 million, it continued to provide substandard health care in the state’s prisons. This is the type of performance that caused Tennessee, Pennsylvania, Maine, Maryland, Minnesota, New Mexico, and New York City to stop having Corizon provide health care for their prisoners. It also is what led to thousands of lawsuits being filed against Corizon, including 660 between 2012 and 2017.

Sources: kansascity.com, legalreader.com, kansas.com
The family of a man who died at a jail in Harris County, Texas while being subjected to a dangerous form of restraint settled for $2.5 million in a lawsuit they brought against the county and seven jail officials.

Kenneth Christopher Lucas, 38, was arrested on a child custody issue. About a week later, jailers entered his cell because he had refused to turn over a sharpened piece of metal he had fashioned after breaking a smoke detector. They handcuffed him and placed him face-down on a gurney while a guard sat on his back to keep him from moving. They also had a nurse administer a sedative to him.

They moved him to another gurney and left him there for 30 minutes. During that period, Lucas repeatedly warned staff that he was unable to breathe and “going to pass out.” They ignored the warnings and Lucas died. The medical examiner ruled his death was a “sudden cardiac death due to hypertensive and atherosclerotic cardiovascular disease during physical restraint.”

Aided by Austin attorney Jeff Edwards, the Lucas family filed a federal civil rights action on behalf of his children under 42 U.S.C. § 1983 and the Americans with Disabilities Act. The lawsuit alleged former Harris County Sheriff Adrian Garcia failed to discourage deputies from using excessive force at the jail, citing a 2009 U.S. Department of Justice memorandum that excessive force at the jail, “raises serious concerns about use of force throughout the state—and frankly across the country.”

The settlement was announced in January 2019. “This wasn’t just a case about officers employing deadly restraint, it was a case of the sheriff condoning it and the county teaching people that this was the right way to do things,” said Edwards, who hoped the $2.5 million payout would teach county officials “that if someone is killed because of your practices, the amount of any settlement will be sizeable.

“It will be noticed by sheriffs and law enforcement throughout the state—and frankly across the country.”

Hopefully, it will lead them to cease using life-threatening restraint practices before another person is killed. See: Salcido v. Harris County, U.S.D.C. (S.D. TX), Case No. 4:15-CV-2155.

Sources: chron.com, abl3.com

Major Prison Health Care Companies Funnel Campaign Contributions to Sheriffs, Get Rewards

Campaign contributions from private medical provider Wellpath to Virginia’s Loudoun County Sheriff Mike Chapman may be legal under Virginia law but are raising ethical questions. Wellpath is already under federal investigation for a contract renewal in Norfolk County.

Wellpath was known as Correct Care Solutions until October of 2018. Correct Care obtained the contract to provide medical and mental health care to detainees at the Loudoun County Adult Detention Center in 2005. It then began to make thousands of dollars in campaign contributions to former Sheriff Stephen O. Simpson.

Chapman was elected sheriff in 2012, and Correct Care made its first contribution to Chapman’s reelection campaign in 2014. Since then, Chapman has accepted at least $14,750 from the prison-profiteering health-care company. Wellpath has 245 contracts to provide health care to detainees across the nation.

It stays active in the political process. Over a 12-year period, Wellpath and Correct Care contributed around $41,000 to Virginia sheriffs. “This is so widespread and so common, it’s the status quo,” said Max Rose, executive director of Sheriffs for Trusting Communities.

Such contributions are “ethically questionable” said Chapman’s opponent for sheriff, Justin Hannah. “When the Sheriff is accepting political donations in the thousands of dollars from the company that provides medical services to the jail, it raises questions as to whether he is putting his candidacy before the safety of the community and true welfare of those in jail.”

Others question whether it skews the
procurement process. When the Wellpath contract was renewed in 2017, its bid was almost $600,000 above the lowest bidder and the second highest bid.

Chapman and others said he did not participate in the procurement process, but three of his employees were on the five-member Board of Supervisors finance committee that chose the winner.

Wellpath’s bid was “very detailed and demonstrated knowledge of what we were looking for,” said Sheriff’s Major Michael Manning, who was a committee member. “We’ve had a relationship with this company for over 11 years. They came to the table and they gave us everything we asked for in a very detailed manner.”

Chapman said his only contact with Correct Care or Wellpath officials are at sheriff’s association conferences and at his annual fundraising golf tournament, which was sponsored in part by Correct Care. Currying favor is an obvious motivation for campaign contributions, and federal investigators are looking into whether former Norfolk Sheriff Bob McCabe helped Correct Care during the bid process for services at his jail. McCabe served as sheriff from 1994 to 2016. Between 2011 and that latter year, Correct Care donated $36,500 to McCabe’s campaign coffers. Another issue was the Board was faced with a contract expiring in about two weeks, which gave the committee “few options” other than to approve the higher bid.

Another issue with such contributions is the Sheriff may look the other way as the contractor carries out its work. “It does create this perverse incentive to scrim on care,” said Corene Kendrick, an attorney with the Prison Law Center, “because for every lab test not run or specialist visit not done, that’s just additional profit that the company can pocket.”

Sources: theappeal.org, loudounnow.com, vpap.org, washingtonpost.com

Stop Prison Profiteering:
Seeking Debit Card Plaintiffs

The Human Rights Defense Center is currently suing NUMI in U.S. District Court in Portland, Oregon over its release debit card practices in that state. We are interested in litigating other cases against NUMI and other debit card companies, including JPay, Keefe, EZ Card, Futura Card Services, Access Corrections, Release Pay and TouchPay, that exploit prisoners and arrestees in this manner. If you have been charged fees to access your own funds on a debit card after being released from prison or jail within the last 18 months, we want to hear from you. Please contact Kathy Moses at kmoses@humanrightsdefensecenter.org, or call (561) 360-2523, or write to: HRDC, SPP Debit Cards, P.O. Box 1151, Lake Worth Beach, FL 33460.

A CARING HAND UP TO RECENTLY PAROLED AND RELEASED INMATES IN BEAUTIFUL SANTA BARBARA COUNTY CALIFORNIA

Our Rehabilitative Reentry Housing Program (formerly known as Transitional Housing) allows you the client to reside in a comfortable environment with all the amenities of home life: Meals, Entertainment, Recreation, as well as Counseling, Therapy and Educational opportunities! D&J’s Tradesmen® Employment Agency provides training support in Home Renovations, Auto Detailing, Handyman Services, Mobile Mechanics, and Food/Catering Services.

Begin the process of healing with work, D&J’s support and financial independence.

D&J’s Counseling and Support Services
Attn: Amy or Jeff
PO Box 1245
Santa Maria, CA 93456
(805) 862-4901 (No collect calls please)

We would like you to join us upon leaving prison. WE’RE WAITING FOR YOU!
Jail conditions are seldom equated to accommodations at a five-star hotel. Even so, there are lockups where the environment threatens a clear and ever-present danger to prisoners and staff alike. Such is the case at East Baton Rouge Parish Prison (EBRPP) a community jail that a 2018 Reuters report called a “ticking time bomb.”

Sixteen men have died while in custody at EBRPP during the past two years, a number that jumps to over 40 deaths since 2012.

Sheriff Sid Gautreaux III, who has had responsibility for the facility since taking office in 2007, has deflected the blame to the jail’s health-care provider, the lack of space and outdated infrastructure inside the facility, and, ultimately, on the types of people incarcerated there.

“The majority of deaths that occur at EBRPP have been a result of poor health and pre-existing conditions prior to entering the prison,” Gautreaux’s office commented, adding that “a large portion of the prison population suffers from drug addiction and the effects of prolonged drug use.”

Whatever challenges the incarcerated population might face do not excuse Gautreaux’s lack of action, advocates for reform have argued. Sheriffs in Louisiana are granted extensive control over who gets locked up and how they are treated. The incarceration rate in East Baton Rouge — 381 per 100,000 residents — far exceeds the national average, and almost 90 percent of those imprisoned in the parish are pre-trial detainees, meaning they have not been convicted of a crime.

This suggests that there are steps Gautreaux could be taking to alleviate the overcrowding and needless deaths in his jail, but he has chosen not to adopt them.

“We should be putting violent offenders in, but instead we’re putting every offender that comes along,” said Mark Milligan, who has been Gautreaux’s primary challenger in three of the last four elections. The most recent, in October 2019, saw voters return Gautreaux to office by a landslide despite the long and growing list of prisoner deaths on his watch and the persistent abysmal conditions at EBRPP.

The sheriff’s office has claimed the death toll in EBRPP is typical of an incarcerated population, yet an investigative report by Reuters found that it has been 2.5 percent higher than the national average over the past few years. The majority of deaths inside the facility have been of individuals simply awaiting trial.

Gautreaux has acknowledged the need for a new facility.

EBRPP was built over 50 years ago, and three of its wings had to be closed due to safety concerns in 2018. Critics have charged that the sheriff has not done enough to make the public aware of how critical the situation has become, and voters have repeatedly turned down tax proposals that would fund a new facility or improve the old one.

“I wish I wasn’t even in the prison business to tell the truth,” Gautreaux admitted in a city council meeting in 2018. Unfortunately, it will take more than wishing to stop the bodies from piling up.

Sources: theappeal.com, theadvocate.com, Reuters

Pennsylvania GEO-Run Jail Boss Resigns After Media Reveals Complaints of Racism, Abuse at Private Prison

The superintendent of Pennsylvania’s George W. Hill Correctional Facility, which is run by GEO Group, resigned in November after a media investigation uncovered a buried whistleblower complaint alleging racist and abusive behavior.

John A. Reilly, Jr., was recruited in 2001 as deputy superintendent George W. Hill.

“When I came here, it was made clear to me that you’ve got to get up to speed to replace George, if something happens,” Reilly said of Hill, who had health problems. Hill retired in 2008, and Reilly replaced him.

“By then, the jail had attracted notoriety after a series of grim developments,” The Philadelphia Inquirer reported this year. “Twelve inmates died at the facility between 2002 and 2008, and lawsuits filed by their families against the prison company resulted in more than half a million dollars in wrongful-death settlements. Two years ago, GEO paid a $7 million settlement to the family of Janene Wallace, a mentally ill 35-year-old woman who had been incarcerated on a probation violation, and then hanged herself after 52 days in solitary confinement.”

One might wonder why an assistant prosecutor like Reilly would be tapped to run a private jail. Critics say it was because Reilly was part of the Republican Party that dominated politics in Delaware County. When Democrats in November 2019 took control of the county council and district attorney’s office for the first time in 150 years, Reilly probably began to ponder his future.

That same month, an investigative report published by The Philadelphia Inquirer and The Caucus detailed allegations of “racist and abusive behavior” by Reilly. That report was based on a 2014 whistleblower complaint sent by Warden Cameron Lindsey to the Attorney General’s Office and Delaware County officials. It accused Reilly of calling black guards “by the N-word in front of senior staffers, referring to Latino workers as ‘tacos,’” and once saying he hoped a pregnant female employee would have a child with birth defects.

Delaware County officials paid an outside lawyer $20,000 to conduct an investigation but he did not produce a written report. In a closed-door session — during which the County Council prohibited the taking of notes — the lawyer gave an oral report to Council members. Reilly said he was suspended for 30 days for overseeing an “unprofessional environment” where employees used “salty language.” He denied using the alleged language or being involved, claiming the allegations were the result of the “personal agenda of the complainants.”

Report of the previously hidden whistleblower complaint investigation and Reilly’s oversight of bank accounts with over $750,000 that county officials say they
$200,000 Settlement in Lawsuit Over Louisiana Jail Guard Sexually Abusing Juvenile

by David M. Reutter

A $200,000 settlement was reached to resolve a civil rights action alleging a guard at Louisiana’s St. Bernard Parish Jail subjected a 15-year-old detainee to repeated sexual abuse.

The complaint stated that every day that guard Eddie Williams, 69, worked between June 2015 and January 2016, he subjected a female juvenile identified as “C.L.” to sexual abuse. According to the lawsuit, Williams asked to see her in her “birthday suit,” ordered her to get naked by taking off her top and bottom, told her to masturbate as he watched, ordered her to sit on the ground in her underwear and naked with her legs spread, and told her to stand in a specific spot prior to entering the shower.

Williams conducted this activity via intercom and viewed C.L. from a video-feed. His behavior “became more and more sexually suggestive and explicit during C.L.’s incarceration.” To persuade her to comply with his orders, he “bribed” her with candy and other food. Once, he allegedly said, “I don’t have any candy, but I have something else for you to put in your mouth.”

Williams also told C.L. he knew where her mother lived, and that he would “hurt or kill her” if she did not comply with his demands.

The suit was filed in federal district court in December 2016. As part of the ensuing investigation, Williams took a polygraph test. The Sheriff’s Office major who conducted the test found Williams “had definite significant emotional responses, which are usually indicative of deception” when he denied abusing C.L.

The district court held the polygraph test could be entered into evidence at a February 2019 hearing. The case was dismissed in March after the settlement was reached.

Despite the fact that Williams’ actions constituted “indecent behavior with a juvenile” and “molestation of a juvenile” under Louisiana law, no charges were brought against him. He reportedly remained employed with the Sheriff’s Office, working in its maintenance fleet. See: R. v. Pohlman, U.S.D.C. (E.D. La.), Case No. 2:16-cv-17865-SM-JCW.

Additional source: nola.com
Prisoners of the Maui Community Correctional Center (MCCC) rioted March 11, 2019, over unstable, inhumane and unconstitutional living conditions. Complaints about broken telephones, uncollected mail, overcrowding, shortened visits and other problems resulted in prisoners from two modules destroying showers and toilets, setting living areas on fire, and breaking windows, sprinkler systems, and other dormitory fixtures causing a total of $5.3 million in damages.

The facility was at 137% capacity, understaffed by 22%, and had 59% of the remaining staff on some form of administrative leave.

An investigation conducted by the Department of Public Safety (DPS) found that extreme overcrowding was the cause of the riot, which started when prisoners one day found that every phone in the facility was not functioning.

During the joint Senate Ways and Means and Public Safety committees’ informational meeting at UH-Maui College, DPS Director Nolan Espinda said that if the phones had been operational, “we may not have faced the situation we did.” He also stated the cells in Module B that were designed to hold two people were holding four, and that understaffing cost the state $1.95 million in overtime for the 2018 fiscal year alone.

State Senator Glenn Wakiai questioned why MCCC did not have any cameras installed in the facility. “To have inner areas of a prison to have no cameras in this day and age is just ridiculous,” he said.

Moreover, Espinda told the committee that the memory card for the handheld camera could not be located. He said it was possible that it was never placed in the camera to begin with so no footage was captured of the guards entering the modules to quell the riot.

In October, the state financially sanctioned 18 prisoners over the riot. They were fined either $1,358 or $2,716, according to their participation in the destruction. After the incident, 36 prisoners were moved to Halawa Correctional Facility in Oahu. Some have returned to “partially repaired” cells in the two modules.

Attorneys representing the prisoners are concerned about prolonged delays in medical care of injuries received during the riot, court appearance challenges for those now housed off-site, and the legality of DPS delegated sanctions not authorized by statute.

ACLU Executive Director Josh Wisch said, “Generally speaking, before an agency can levy sanctions like this and collect especially monetary sanctions like this, there usually has to be a specific delegation of that authority from the legislature, and it doesn’t appear that kind of a delegation was ever really made here.”

Sources: khon2.com, mauinews.com, mauinow.com

Federal Court Orders Videophone Access for Deaf Prisoners in Colorado

On September 18, 2019, a federal district court ordered the Colorado Department of Corrections (DOC) to provide access to videophones for all of its deaf and hard of hearing prisoners and prisoners who wish to communicate with people who are deaf or hard of hearing.

The court ordered the DOC to implement policies and procedures for videophone use, compliance monitoring, maintenance and repair.

Attorney Amy Robertson assisted deaf DOC prisoners Cathy Begano, Andrew Atkins, Mark Trevithick, Leonid Rabinkov and Bianca Charmane Rogers – whose mother is deaf – in filing two consolidated civil rights lawsuits against the DOC and DOC staff, alleging the prison system’s failure to provide access to videophones violated the Americans with Disabilities Act (ADA), the Rehabilitation Act (RA) and the First Amendment.

When the suits were filed, the DOC provided only teletypewriter services (TTY) to deaf prisoners. That technology is 60 years old, error-prone, failure-prone and causes delays in communication. It requires the hearing-impaired person to use the English language to type a message on a TTY machine. The message is received by an operator at a distant location who then reads it to an American Sign Language (ASL) interpreter at another location. The interpreter uses a videophone and ASL to relay the message to the person receiving it. A reply involves all of those steps in reverse order. The messages lose nuance and emotional content.

ASL is not related to or derivative of English, and English is not the native language of the deaf prisoners who filed suit or Rogers’ mother. The TTY machines often interject random characters or spew gibberish. They also break down frequently and parts are difficult to find. Further, the relayed-and-translated nature of the process often leads to miscommunication and always causes delays. Rabinkov had been unable to communicate with his friends and his mother at all, as they use Russian Sign Language – which is not supported by TTY.

Trevithick filed a motion for partial summary judgment on his ADA and RA claims, while the defendants filed motions to dismiss and for summary judgment, alleging failure to exhaust administrative remedies and mootness because, during the course of the litigation, the DOC made videophones available. Since that was the relief sought by the plaintiffs, mootness was an issue. However, the district court rejected that argument due to a lack of videophone policies and procedures or financial investment by the DOC in making videophones available, continuing security-related objections to videophones by DOC officials, and the DOC’s position that TTY had satisfied its obligations under the ADA and RA – all of which made the changes easily reversible.

The court held that Begano had failed to file a timely Step 2 grievance and thus had failed to exhaust administrative remedies. Her claims were dismissed without prejudice. The remaining plaintiffs had exhausted administrative remedies before the second lawsuit was filed and, since the cases had been consolidated, that was sufficient.

Trevithick had shown that the defen-
John Nigl began his 100-year prison stretch in 2001 at Waupun Correctional Institution in Wisconsin. From April of 2013 until January of 2015, Nigl received psychological counseling from Dr. Sandra Johnston. Their sessions ceased when Johnston left her employment. The two shared a kiss when Johnston left.

Nigl’s brother obtained Johnston’s address, and Nigl contacted her by mail. She responded favorably so the two began exchanging letters and telephone calls. After a four-month period, they became engaged in April of 2015.

Johnston requested visitation approval to see Nigl several times. They were denied because she had not been 12 months outside her prison employment. She set up a phone account under an alias name and had phone sex with Nigl. She returned to work as a prison psychologist in July of 2015. She disclosed her friendship with Nigl in a “fraternization policy exception request,” but her supervisor never processed it. The two continued their contact anyway and requested permission to marry in 2016.

Permission was denied as it was discovered how many rules and policies the two had broken in the course of their relationship. In addition, the state licensing board suspended Johnston’s license for 12 months because she had entered into a relationship with a patient prior to the expiration of the two-year period since their last professional visit. The pair jointly filed a civil rights suit in federal court claiming their 14th Amendment right to marry had been denied by prison officials.

The lower court granted summary judgment to prison officials. It reasoned the denial of permission for the couple to marry was “related to legitimate penological interests” because the pair “had engaged in a pattern of rule-breaking and deception in furtherance of their relationship leading up to the date of the marriage request.”

In October, the circuit court panel affirmed the lower court’s judgment in all aspects. While affirming a prisoner’s right to marry decreed in Turner v. Safely, 482 U.S. 78, 95 (1987), the panel cited provisions regarding that right in that case and how they related to Nigl and Johnston’s situation. For example, it recognized the warden’s concern that Johnston may have been using her official position over Nigl to exploit him in finding the lower court’s summary judgment grant to be well-founded. It further noted that the prison administrators maintained the pair could again apply for permission to marry at a later date. See: Nigl v. Litscher, 940 F.3d 329 (7th Cir 2019).

Additional source: wisbar.org
Death Highlights Need for Change in Texas GEO-Run Prison

by Kevin Bliss

Eagle Pass Correctional Facility (EPCF) have been investigated by the Maverick County, Texas Sheriff’s Office, the Idaho Department of Corrections (IDOC), Corizon Correctional Healthcare, and the GEO Group after 56-year-old Kim Sargent Taylor died in January 2019, of “natural causes.” Taylor had been to medical a week earlier complaining of a sore throat, followed by a rising temperature of 101.3, dizziness, and congested lungs. On the night of his death, guards were called because Taylor was pale, sweating, and incoherent. A later report stated that an inexperienced nurse responded supplying subpar medical assistance, which led to his transportation to the local hospital where he was pronounced dead.

EPCF, just southwest of San Antonio, Texas, is GEO Group’s newly acquired prison used to house IDOC’s prisoners, due to overpopulation. It began as a county jail and was later converted in 2018 to meet IDOC’s requirements to house some of their less violent prisoners. Since then, it has been surrounded in controversy because of its poor living conditions. Prisoners and their families have contacted the Idaho American Civil Liberties and the Idaho Press complaining about being locked down 24 hours a day, no access to the grievance procedure, inadequate food, poor medical treatment, and a collection of other constitutional violations.

Terri Greenwood and Craig Taylor (Kim Taylor’s sister and brother) hired Ed Budge of Budge and Heipt, LLC to look into the situation after a Serious Incident Review (SIR) ordered by the IDOC revealed questionable practices by the responding nurse and a premature finding of natural causes without an autopsy.

“The public needs to know about Kim Taylor,” said Budge. “The public needs to know that a loved one can be confined to a prison but come out in a body bag.”

IDOC and Corizon performed several Healthcare Service Audits at EPCF where it was found they failed to meet threshold requirements in the areas of Infection Control, Medication Administration Records, Nonemergency Healthcare Services, Pharmaceutical Operations, Continuity of Care, and Oral Care. Although these conditions had existed for some time, IDOC spokesman Jeff Ray confirmed with the Idaho Press that no penalty had yet been invoked against GEO for those actions which violated contractual agreements.

EPCF Warden Waymon Barry has been directed by the IDOC to have an autopsy performed following any future prisoner’s death. In May 2019, two-top level Corizon employees were dismissed for the improper medical treatment Taylor received. The IDOC has stated it will audit the prison once a week to monitor additional recommended improvements.

Budge stated that he commended the IDOC for their prompt response but he is still looking into the situation for possible legal action. “It often takes months to get clues it often takes years to get answers. The public needs to know about this, for sure,” he said.

Jeff Ray, spokesman for the Idaho Department of Correction, said that state prison officials “had seen no significant problems at Eagle Pass that caused us to be concerned about the quality of health care” prior to Taylor’s death. In January, IDOC announced it was looking for a private prison company to run an in-state prison. If that happens, all prisoners currently held at Eagle Pass would be returned to Idaho.

Sources: boiseweekly.com, idahopress.com, postregister.com

States Move for True Second Chance Opportunities

by Kevin Bliss

Communities and politicians are acting in concerted effort during a brisk economy to reduce the obstacles preventing recently incarcerated citizens from once again becoming productive members of society. States are holding business summits geared at facilitating the hiring of ex-offenders, passing bills to increase employment opportunities and to help restore lost rights, and holding vocational training programs coupled with job fairs within prisons to help secure employment before release. Activists say this is a bipartisan issue that both sides are working together to resolve.

In November, Governor Kim Reynolds held a summit at Iowa Correctional Institute for Women in Mitchellville. “We have a moral responsibility to think differently,” she stated. “Prison shouldn’t be one stop in a circle that leads back to prison. It needs to connect people with opportunities to improve themselves and their skills.”

In an event the same month, North Liberty Grace Community Church manager Jean Keeley, along with 30 business leaders, played characters to demonstrate barriers ex-prisoners face in acquiring personal identification, employment, and housing.

“We’ve had many past simulation attendees that just give up and stay in jail, and we know that can happen for individuals, too,” said Michelle Heinz, executive director of InsideOut Reentry. “It can just be so many barriers and so challenging that it makes it hard to keep moving forward.”

Governor Kay Ivey of Alabama stated, “A proven way to reduce inmate population to make sure that those inmates who have been released go on to productive lives and do not return to prison.” She awarded a $99,546 grant to J.F. Ingram State Technical College to help those being released from prison find employment.
Since President Obama announced the Fair Chance Business Pledge in 2016, securing business owners’ agreement to help reduce barriers to employment for people with felony records, unemployment in the United States has dropped to a 50-year low at 3.6%. The Pledge included such measures as an agreement to “Ban the Box” (a section on job applications asking about prior criminal history). Initial organizations such as Coca-Cola, Starbucks, and Google signed the Pledge and 35 states have since legislated similar laws.

Many states are also looking at the option of streamlining ex-offender rights restoration, one of the factors that contribute to a 40% national recidivism rate. A survey conducted in 2010 showed that 33% of all black males have a felony conviction suggesting a significant amount of blacks could get lost in the revolving door of incarceration.

Vice President of the Poverty and Prosperity Program at the Center for American Progress Rebecca Vallas stated, “We’re creating a permanent underclass of workers who don’t have the same opportunities as others.” Vallas also promotes the Clean Slate campaign to automatically erase a person’s criminal history after a set period of time following their release. Some states permit vocational training followed by job fairs within their prisons. Michigan boasts a 95% job placement rate with those enrolled in their Vocational Village program.

In late-November, Pulaski County, Kentucky, implemented a three-phase program, Comprehensive Rehabilitation of Inmates Transforming Individuals, Community, and Livelihoods (CRITICAL), assisting prisoners prior to release. The first stage teaches soft skills used in the job market, the next provides vocational or educational training as determined by a program leader, followed by job interview skills training.

Jailer Anthony McCollum said he believes it will slow down the revolving door on the most crowded jail in the state. “There’s a lot of jobs to be offered here in Pulaski County, and we got to thinking, one of the pools to pull from would be people that are incarcerated that deserve a second chance,” he said.

Ex-prisoner Robby Grant said a sentence really is not over when offenders are released, but that the stigma remains for the rest of their lives. “You kind of get to a place where you feel like maybe you don’t deserve ... you aren’t going to get a second chance,” he said. “You are never going to get the chance to redeem yourself.” Advocates for second chances for ex-offenders hope these and other measures will help reverse this condition.

Sources: krg.com, npr.org, alabamanews.net, desmoineregister.com, wkms.org
Oklahoma Commutations Largest Mass Release in U.S. History
by Kevin Bliss

On November 1, 2019, Oklahoma Governor Kevin Stitt approved commutation for 527 prisoners. The Oklahoma commutation is the largest mass commutation in the history of the nation. The citizens of Oklahoma voted yes on State Question 780 in 2016, which decriminalized low-level, nonviolent property crimes and certain drug possessions, and in 2019 Stitt signed a bill making that act apply retroactively.

Former Oklahoma House Speaker Kris Steele initiated the push to reduce the state’s prison population. It was estimated it would save the state $12 million a year.

“Historically, many in Oklahoma have seen incarceration and excessive penalties as politically expedient,” Steele said. “We are breaking away from that model as we understand that not only does it make a situation worse, but it also costs a fortune.”

Oklahoma has the highest incarceration rate of the nation. This alternative sentencing measure is just one step in Stitt’s priority to change that. The bill gave authorization to the Oklahoma Pardon and Parole Board to accelerate a one-stage commutation hearing for those prisoners who had no additional ineligible sentences, were not guilty of serious misconduct while incarcerated, or whose commutation was not opposed by prosecutor or victim.

The board began in August to compile a list of prisoners who met the criteria for a commutation hearing. They identified 527 prisoners and on November 1 Governor Stitt approved them all. Three days later, the first 462 were released. As many 3,500 prisoners could be affected by the bill. Baylee Lakey, spokeswoman for Governor Stitt, said, “The Governor applauds the Pardon and Parole Board’s dedication to fulfill the will of the people through the ... docket, giving hundreds of nonviolent, low-level offenders an opportunity at a second chance.”

Board Director Steve Bickley said, “A lot of work has been done to make sure the spirit of the law is being implemented. We’re not blanketing saying everybody should get out of prison. We’re trying to do what’s right and fair.”

Governor Stitt made an appearance at Dr. Eddie Warrior Correctional Facility in Taft, Oklahoma, to greet around 70 women granted early release. “It’s the great thing that the governor is doing so we can be home with our kids. Been out of her life for three years. But she’s my hope. She’s never given up on me,” said Lana Lemus, one of those released.

Sources: KOCO.com, abcnews.go.com, kfor.com, news9.com, kswq.com

California: Qualified Attorney Work-Product Protection Applies to Discovery During Habeas Proceedings
by Douglas Ankney

On October 2, 2019, the California Court of Appeal for the Second Appellate District ruled that the qualified attorney work-product protection doctrine applies in habeas corpus proceedings. In 1997, a jury convicted Samuel Zamudio Jimenez of two counts of murder and sentenced him to death.

Jimenez filed a habeas petition in 2010, alleging juror misconduct among other claims. Attached to his petition was a declaration from alternate juror E.P., who stated that she sat with the jurors during deliberations, that jurors asked her opinion and that she told them she agreed that Jimenez was guilty.

The California Supreme Court ordered the state to show cause in the superior court why relief should not be granted on the juror misconduct claim.

At a subsequent hearing on Jimenez’s habeas petition, the superior court agreed to the district attorney’s request that letters be sent to the remaining jurors to ask if they were willing to speak with the parties’ counsel. The parties agreed that if any juror spoke to one party, that party would provide the juror’s statement to the other party.

The district attorney also requested that Jimenez be required to disclose any statements from jurors or alternates previously obtained. Jimenez objected, arguing, among other things, that the qualified attorney work-product protection doctrine shielded those statements from disclosure. The superior court disagreed and ordered Jimenez to provide all statements his counsel had obtained from the alternate jurors concerning whether they had participated in jury deliberations. Jimenez filed a petition for a writ of mandate seeking relief from the superior court’s discovery order.

In deciding the petition for writ of mandate, the Court of Appeal observed that court-ordered discovery is generally unavailable in habeas corpus proceedings “unless and until a court issues an order to show cause.” But once an order to show cause has been entered, courts have discretion to order discovery as to issues on which the petition has stated a prima facie case.

Because habeas corpus is analogous to neither civil nor criminal proceedings, the nature and scope of discovery following an order to show cause is resolved on a case-by-case basis. Thus, the statutes governing discovery in criminal trials and those governing discovery in civil cases do not apply to habeas proceedings, although those statutes can be used for guidance. The Court opined that the qualified attorney work-product protection doctrine provided absolute protection to any “writing that reflects an attorney’s impressions, conclusions, opinions, or legal research or theories,” citing Code of Civil Procedure.
§ 2018.030.

The work-product doctrine reflects the policy of the state to preserve the rights of attorneys to prepare cases for trial with a degree of privacy necessary to encourage them to prepare their cases thoroughly and to investigate not only favorable but unfavorable aspects of those cases. It also prevents attorneys from taking undue advantage of their adversary’s industry and efforts. In Coito v. Superior Court, 54 Cal. 4th 480 (Cal. 2012), the California Supreme Court held that “a witness statement obtained through an attorney-directed interview is, as a matter of law, entitled to at least qualified work product protection.”

However, in Isazaga v. Superior Court, 54 Cal.3d 356 (Cal. 1991), the state Supreme Court had limited the application of the work-product protection in criminal cases to writings that reflect an attorney’s impressions, conclusions, opinions, or legal research or theories. But equally true in criminal cases, discovery is limited to disclosing witness statements of only those witnesses the attorney intends to call.

In the instant case, Jimenez did not yet know if he intended to call any of the jurors as witnesses. And as in a civil case, permitting discovery of the fruits of habeas counsel’s investigation would discourage counsel from investigating unfavorable aspects of the case and memorializing adverse information, diminishing counsel’s duty to investigate matters thoroughly.

The Court of Appeal concluded that the juror’s statements to Jimenez’s counsel were shielded from disclosure by qualified attorney work-product protection and that the superior court had abused its discretion in ordering discovery at this stage of the proceedings. Accordingly, the Court ordered the peremptory writ of mandate to issue, directing the superior court to vacate its order granting the district attorney’s motion for discovery and to enter a new order denying that motion without prejudice to its renewal. See: Jimenez v. Superior Court, 40 Cal. App. 5th 824 (Cal. App. 2d Dist. 2019).

Court Grants Bail to Ex-Peruvian President Challenging Extradition Due to Solitary Confinement

by Dale Chappell

On October 10, 2019, U.S. District Court Judge Vince Chhabria in San Francisco granted bail to former Peruvian President Alejandro Toledo, requiring him to be released on a $1 million bond under home confinement and electronic monitoring.

The 73-year-old Toledo had been held in solitary confinement at the Santa Rita Jail for the previous three months following his July 2019 arrest, awaiting his fate as to whether the United States will extradite him back to Peru to face bribery charges. He is accused of receiving $20 million in bribes from a Brazilian construction company.

At first, Toledo was denied bail by a magistrate judge who said he was too great of a flight risk. When his lawyers appealed that decision to the district judge, the court held a hearing and overturned the magistrate’s ruling.

Chhabria found that Toledo’s three months in solitary, where he was allowed out of his cell just one hour every two days, “initiated a marked decline in [his] mental health,” according to a psychiatrist’s report. The judge also said that not having been convicted of a crime, there were “serious due process concerns” with keeping someone locked up under such conditions.

The court noted that Toledo’s detention was likely to last for many more months or even years, as the U.S. and Peru are not in agreement on what to do with the ex-president. The combination of those factors led Judge Chhabria to order Toledo’s release pending the outcome of his extradition.

However, the government fought to keep him locked up, arguing the judge had no authority to get involved in how the jail kept Toledo in custody. While the court agreed, it said the “hardship of detention is one factor among many that can justify release.”

Yet Toledo wasn’t free to walk out of jail just yet. The government can file an appeal, and the court stayed its order during the time allotted to do so. It also gave the government the option to find an “alternative” to solitary confinement to keep Toledo in jail, while reiterating that he was not a flight risk and has close ties to the San Francisco Bay area. See: In re Extradition of Toledo, U.S.D.C. (N.D. Cal.), Case No. 3:19-mj-71055-MAG.

Additional sources: sfchronicle.com, bloomberg.com

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Representing Pennsylvania Inmates
Medical mistakes
Inadequate care
Delay in treatment
In January, New Jersey became the 7th state to end prison gerrymandering— the practice of using incarcerated people to inflate the population of rural districts. That marks a milestone for criminal justice policy and democracy: over 25% of US residents now live in a state, county, or municipality that has ended prison gerrymandering.

Going into the 2020 redistricting cycle, California, Delaware, Maryland, Delaware, Nevada, New Jersey, New York, and Washington State will be adjusting their redistricting data to count incarcerated people at their home address when drawing districts.

The Census Bureau counts incarcerated people as residents of the towns where they are confined, though they continue to be constituents of their home districts— and in Maine and Vermont, where incarcerated people retain the right to vote, they are required to vote by absentee ballot back home. When that Census data is used to draw district lines it transfers power away from the home communities of incarcerated people, and gives it to legislative districts that contain prisons.

But an increasing number of states are adjusting Census data to avoid prison gerrymandering. State laws ending prison gerrymandering are a simple state-based solution to a problem that should have been corrected by the federal government.

The bills use states’ administrative records to reassign incarcerated people to their home addresses before redistricting. Ideally, the U.S. Census Bureau will change its policy and count incarcerated people as residents of their home addresses in the 2030 Census, but for now states should be prepared to have their own solutions in place.

New York and Maryland have already passed and implemented similar laws to count people in prison at home for this round of redistricting, and both states’ laws were successfully defended in court. California, Delaware, Nevada, and Washington State passed legislation that will take effect after the 2020 Census. As of February, at least 8 states are considering similar legislation in the current legislative session, including Colorado, Florida, Illinois, Michigan, Nebraska, Pennsylvania, Rhode Island, Virginia, and Wisconsin.

As more states take on the task of adjusting Census data to make it usable for drawing equal districts, the Census Bureau has taken some small but helpful steps. For the first time, the 2020 Census will include correctional population data within the main redistricting dataset (the PL 94-171 file).

Identifying the correctional facilities makes the data-crunching easier for states that end prison gerrymandering on their own, and will be particularly useful for states with short redistricting deadlines, such as New Jersey. This data will give redistricting officials the Census counts of people in correctional facilities at the location of the facility — enabling states to subtract incarcerated people from the prison location and, in conjunction with the state’s own home address data, reallocate them back home for that state’s redistricting.

Other states should follow the lead of the 7 states that have ended prison gerrymandering and ensure equal representation for all their residents.

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**Guard Who Failed to Prevent Escape Entitled to Qualified Immunity**

by David M. Reutter

The Seventh Circuit Court of Appeals held on September 18, 2019 that a guard cannot be held liable under the Constitution for failing to prevent an escape.

In an attempt to apparently commit suicide, Tyson Salters, a pretrial detainee at the Kane County jail in Illinois, swallowed some cleaning fluid. He was taken to a hospital and ordered to remain in shackles. Guard Shaw Loomis disobeyed that order and removed the restraints when Salters requested to use the bathroom.

Once free of the shackles, Salters grabbed Loomis’ gun and escaped. As he terrorized hospital staff and visitors, Loomis hid. Three hours after being cornered, a SWAT team killed him. Two people at the hospital who claimed they were frightened but not injured sued Loomis, Kane County, the hospital and its security service.

The district court denied Loomis’ motion to dismiss on qualified immunity grounds, holding liability was created under the “state-created danger exception.” The county appealed.

The Seventh Circuit noted the plaintiffs did not allege that “Loomis intended harm to the Hospital’s staff, patients, and visitors – he appears, instead, to be a feeless coward, but the district judge thought that negligence leading to bystanders’ danger could lead to liability.”

The Court of Appeals disagreed. “The problem with this reasoning is that it starts and ends at a high level of generality.” The Court said the state-created danger exception is “a principle, not a rule,” as it “does not tell any public employee what to do, or avoid in any situation.”

“A principle can be clearly established without matching a later case’s facts. The search is for an appropriate level of generality, not the most particular conceivable level,” the appellate court wrote. “And the level of generality is appropriate when it establishes the rule in a way that tells a public employee what the Constitution requires in a situation the employee faces.”

The Seventh Circuit noted its sister appellate courts that have considered whether a constitutional obligation exists to keep a prisoner under control have rejected that requirement. While Loomis’ actions may have constituted official negligence, they did not reach the level of a constitutional violation.

The district court’s order denying Loomis qualified immunity was reversed. See: Weiland v. Loomis, 938 F.3d 917 (7th Cir. 2019).
Introducing the latest in the Citebook Series from Prison Legal News Publishing

The Habeas Citebook: Prosecutorial Misconduct

By Alissa Hull
Edited by Richard Resch

The Habeas Citebook: Prosecutorial Misconduct is part of the series of books by Prison Legal News Publishing designed to help pro se prisoner litigants and their attorneys identify, raise and litigate viable claims for potential habeas corpus relief. This easy-to-use book is an essential resource for anyone with a potential claim based upon prosecutorial misconduct. It provides citations to over 1,700 helpful and instructive cases on the topic from the federal courts, all 50 states, and Washington, D.C. It’ll save litigants hundreds of hours of research in identifying relevant issues, targeting potentially successful strategies to challenge their conviction, and locating supporting case law.

The Habeas Citebook: Prosecutorial Misconduct is an excellent resource for anyone seriously interested in making a claim of prosecutorial misconduct to their conviction. The book explains complex procedural and substantive issues concerning prosecutorial misconduct in a way that will enable you to identify and argue potentially meritorious claims. The deck is already stacked against prisoners who represent themselves in habeas. This book will help you level the playing field in your quest for justice.

—Brandon Sample, Esq., Federal criminal defense lawyer, author, and criminal justice reform activist

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A joint report published in June 2019 by Solitary Watch, the American Civil Liberties Union of Louisiana, and the Jesuit Social Research Institute/Loyola University New Orleans discusses the use of solitary confinement by the Louisiana prison system. The report, called “Louisiana on Lockdown,” includes statistics and testimony from more than 700 people in solitary in all nine of Louisiana’s prisons.

According to the report, the Louisiana Department of Public Safety and Corrections (LADOC) reported in the fall of 2017 that “19 percent of the men in its state prisons—2,709 in all—had been in solitary confinement for more than two weeks. Many had been there for years or even decades.” Another report from 2016 found over 17 percent of the state’s prisoners were in solitary. The report states, “these rates of solitary confinement use were more than double the next highest state’s, and approximately four times the national average.

Given that Louisiana also has the second highest incarceration rate in the United States, which leads the world in both incarceration and solitary confinement use, it is clear that Louisiana holds the title of solitary confinement capital of the world.”

The report found that over 77% of the respondents had been in solitary over a year, and 30% for more than five years. The respondents described negative health effects such as “anxiety, panic attacks, depression, hopelessness, sensitivity to light and sound, visual and auditory hallucinations, rage, paranoia, and difficulty interacting with others. Some expressed fear that the damage would be permanent, and they would never be the same again.” More than 25% reported harming themselves while in solitary. More than 43% said they were never allowed to leave their cells, which averaged six feet by nine feet in size. Physical, sexual, and emotional abuse were common, both from guards and from other prisoners. Some 79% reported that racial harassment was common.

The report gives a number of recommendations to alleviate this problem, including full review and reclassification of everyone in solitary, while avoiding the use of “risk assessment tools” and class biases. Other recommendations included an overhaul of the LADOC rule book to eliminate solitary as a punishment for all but the most serious and violent offenses; eliminate the use of solitary for all juveniles and those with serious mental illnesses; eliminate the use of solitary as a substitute for protective custody; create “step-down” programs with at least six hours a day out of the cell for those who must be in solitary, and close the “extended lockdown” camps at two correctional facilities.

There are many other recommendations, but perhaps the most logical one would be to stop locking up so many people. The report states that “[a]t the end of 2018, the state of Louisiana incarcerated 32,397 people, including 14,880 in state prison facilities and an additional 17,517 state-sentenced individuals in local jails and transitional work programs. And with 1,052 out of every 100,000 citizens incarcerated, Louisiana had the second highest incarceration rate in the nation (last year, it fell slightly below Oklahoma for the first time in decades), and a rate far higher than the U.S. average of 698 per 100,000.”

Sources: Louisiana on Lockdown: A Report on the Use of Solitary Confinement in Louisiana State Prisons, With Testimony From the People Who Live It

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Seventh Circuit Upholds Prison Guard’s Rape Convictions, But County Not Liable

Darryl L. Christensen was a Polk County, Wisconsin jail guard who over the course of three years, between 2011 and 2014, repeatedly sexually assaulted two female prisoners. When this was discovered by jail administrators, Christensen resigned. He pleaded guilty to several counts of sexual assault and will get a taste of what it’s like to be on the other side of the bars for the next thirty years.

His victims, who are referred to only by their initials in the Seventh Circuit opinion, sued both Christensen and the county for violating their rights. They won in the district court $2,000,000 in compensatory and $3,750,000 in punitive damages per plaintiff. Christensen and the county both moved for new trials and appealed. On June 26, the Seventh Circuit affirmed Christensen’s conviction but reversed the damage award against the county.

As for Christensen, the Court found “no reason to disturb the jury’s verdict against Christensen and so affirm the denial of his request for a new trial. His assaults were predatory and knowingly criminal. But to impose liability against the county for Christensen’s crimes, there must be evidence of an offending county policy, culpability, and causation. These are demanding standards. Christensen’s acts were reprehensible, but the evidence shows no connection between the assaults and any county policy. We therefore reverse and remand for entry of judgment in favor of the county.”

The Court found that “against the county, plaintiffs made four principal allegations: (1) the jail’s sexual assault policies and training were inadequate; (2) the jail customarily tolerated sexually offensive comments by guards; (3) the investigation of a former guard revealed the jail’s sexual assault policy was inadequate and that the jail minimized sexual abuse; and (4) the jail failed to widely implement recommendations under the Prison Rape Elimination Act (PREA), 34 U.S.C. §§ 30301–09. The sum of these allegations, plaintiffs argued, prove the county was deliberately indifferent to a known risk of sexual assault by jail staff.”

For the next 30 or so pages, the majority, in the form of Judges Bauer and Brennan, carefully explained why it simply could not allow the county to be held responsible as the jury found that it was.

One of the three-judge panel, dissented, though. Judge Scudder said, “I agree with District Judge Conley that a reasonable jury
could have found that Polk County acted with deliberate indifference to the need for more training and monitoring to prevent the sexual assault of female inmates by male guards and in doing so caused the injuries suffered by plaintiffs J.K.J. and M.J.J."

Judge Scudder went on to explain: “What worries me about today’s decision is that, as a very practical matter, municipalities may conclude that there is not much to be done to stop a rogue guard from engaging in secretive and heinous conduct in violation of a bright-line policy prohibiting sexual contact with inmates. That view would be as mistaken as it is dangerous, for cities and counties have a meaningful responsibility and role to play in preventing the sexual abuse of inmates in their custody by the guards they employ. That promise comes from the Eighth Amendment. While not every incident of abuse will be preventable, a jail’s decision makers are not free to choose—through their deliberate decisions on enforcement and training related to the jail’s policies—to leave unaddressed a known and material risk of sexual assault to inmates under the jail’s care.” See: J.K.J and M.J.J. v. Polk County, 928 F.3d 576 (7th Cir. 2019).}

**Long-running Maricopa County, Arizona Jail Lawsuit Ends**

*by Ed Lyon*

With all of the negative publicity concerning the Maricopa County, Arizona, jails associated with former Sheriff Joe Arpaio, it’s easy to overlook the fact that the unconstitutional conditions there began under Sheriff-elect Jerry Hill. It was during Hill’s tenure in 1977 that the lawsuit Graves v. Hill — now Graves v. Penzone, the name of the county’s current sheriff — began.

Initially the case involved access to attorneys through telephone availability and overcrowded conditions with three pre-trial detainees as plaintiffs. The suit expanded to include and eventually revolve around the jail’s detainees not receiving medical and mental health care that meets constitutionally required minimum standards.

A local legal aid organization, Community Legal Services, filed the original lawsuit, maintaining it until 2005. At that point, the American Civil Liberties Union (ACLU) took the helm, presumably in response to a 2001 judgment termination attempt initiated under the Arpaio administration.

In 1981, a multilateral consent decree was agreed to by the parties. In 1995, an amended judgment replaced the consent decree as jail administrators and staff continued to work at alleviating unconstitutional conditions. Therefore, the stipulated amended judgment did not include any determinations by the judge on the actual “constitutionally mandated standards applicable to the Maricopa County Jails.”

Resulting from Arpaio’s 2001 termination attempt, followed by a renewed effort in 2003 and the ACLU’s entry into the case, an evidentiary hearing was held, followed by protracted discovery until a new judge was assigned in 2008. Another evidentiary hearing was held resulting in a second amended judgment in October. Compliance hearings were held in 2009 resulting in the appointment of a monitor who was ordered to make quarterly reports.

By October 2011, some of the suit’s non-medical issues were agreed to be terminated by the parties. The remaining non-medical issues were terminated upon an unopposed motion by the defendants in May 2012, resulting in a third amended judgment. The medical issues were maintained with court appointed monitors reporting continued oversight of the jails.

In the midst of compliance and evidentiary hearings between 2012 and 2019, accompanied by newly elected Sheriff Paul Penzone’s efforts to bring physical and mental health care in his jails up to constitutional minimum standards, the court terminated the suit in 2019. This was based on the court’s determination that defendants had managed to substantially comply with the suit’s fourth amended judgment issued in 2014.

The final order in the case terminating the fourth amended judgment and denying the ACLU’s modification of the fourth amended judgment was entered on September 19, 2019. See: Graves v. Penzone, U.S.D.C., (D AZ), 2019 U.S.Dist. Lexis 159784.

Additional source: azcentral.com
Suicide or Murder? Jeffrey Epstein’s Death Still Drawing Attention to Bureau Inadequacies

by Anthony W. Accurso

Months after the August 2019 death of Jeffrey Epstein, rumors and theories are still circulating that cast doubt on the cause of death.

The 66-year-old billionaire became the center of the nation’s attention after he was arrested July 6, 2019, on new charges of sex trafficking of minors in New York and Florida over a decade ago. A month later, on August 10, 2019, he was found dead in his cell at the Metropolitan Correctional Center (MCC) in New York City, where he was being kept in custody by the federal Bureau of Prisons (BOP) to await trial.

The MCC has long been a notorious hellhole, which critics have labeled a “gulag.” Hundreds of suspected “terrorists” were rounded up by the FBI in the aftermath of the 9/11 attacks, often on the flimsiest of evidence – i.e. being Muslim – and many were jailed without bail at the MCC. They were denied rights to make a phone call or speak with an attorney, and some were held in cells lit 24 hours a day and shackled when escorted. They were almost all released after being held for an average of three months. PLN has reported for decades on prisoners at the MCC being beaten, raped and otherwise abused by staff in squalid, brutal conditions.

Following media outrage that Epstein’s young victims would be denied justice — a 2015 affidavit filed by French modeling agent Jean-Luc Brunel noted Epstein’s “strong appetite for sex with minors”—New York City Chief Medical Examiner Dr. Barbara Sampson conducted an autopsy and ruled his death a suicide. Brunel, it should be noted, was also one of Epstein’s accomplices.

However, the fact that video tapes showing who had access to Epstein’s cell at the time of his death were “accidentally deleted” by the BOP did not inspire confidence in the suicide claims. Furthermore, Michael Baden, a renowned forensic pathologist, was hired by Epstein’s family to conduct an independent autopsy. He concluded that Epstein was murdered and said that injuries he suffered, such as a broken bone in his neck, were “extremely unusual in suicidal hangings and could occur much more commonly in homicidal strangulation.”

(After the famous Attica Prison uprising in 1971, State Correction Department officials blamed prisoners for the deaths of ten staff hostages, saying some had their throats slit. Baden and another pathologist determined this was false and that the hostages were killed by indiscriminate gunfire during an assault on the prison by state troopers ordered by then-Governor Nelson Rockefeller. Thirty prisoners were also killed during the assault, and Baden determined that many had been shot at close range by state troopers and guards.)

Last November, former Navy SEAL and Warrior Dog Foundation founder Mike Ritland commented on Fox News that Epstein didn’t kill himself. Ritland told GQ that he was “trying to keep [the story] in the news so it doesn’t get forgotten about.” Ritland cited popular podcaster and social media personality Joe Rogan as his source.

Rogan has been posting and reposting “Epstein didn't kill himself” memes as more high-profile people continue to be linked to Epstein. The list includes a host of billionaires, plus Donald Trump, Bill Clinton, Prince Andrew, Kevin Spacey, and — as of October — Bill Gates. Add to this the allegation that Amy Robach, an ABC News anchor, claims that her story linking Prince Andrew to Epstein’s victims was suppressed, and you have the stuff that conspiracy theories are made of. As recently as this February, though, the hashtags #EpsteinSuicideCoverUp and #EpsteinDidNotKillHimself trended upward again.

But the truth could potentially be much more mundane, though all the more tragic for its reality: Jeffrey Epstein might well have committed suicide, and been abetted by systemic failures that have plagued BOP for years. The circumstances which have come to light surrounding Epstein’s suicide — overworked staff, understaffed facilities, failure to follow policy, attempting to cover-up failures, and questionable decisions by psychologists and wardens — do not surprise anyone familiar with criminal justice issues. Coupled with a callous disregard and indifference to the lives and well-being of the prisoners in its captivity, But these are also the same facts that allow murders to happen in prisons and jails as well and for bureaucrats to avoid liability and accountability alike.

According to Serene Gregg, the local prison workers’ union president at MCC New York, “They [prison officials] have been playing a dangerous game for a long time. And it’s not just at MCC; it’s going on across the country.”

Several high-profile deaths had led lawmakers from West Virginia and Pennsylvania to write a letter in 2018 to then-Attorney General Jeff Sessions, which was sent just two days before notorious mobster Whitey Bulger was killed in a BOP facility in Hazelton, West Virginia.

Data released by the U.S. Department of Justice in 2016 found suicide had become the leading cause of death in the nation’s jails and prisons, hitting a 15-year high. In a June 2019 story, USA Today also noted that suicide rates of incarcerated persons have been on the rise. Fifty out of every 100,000 incarcerated persons committed suicide in 2014, the latest year for which the government has released data. That rate is 3.5 times the suicide rate of the general population.

“In most prisons and jails I’ve seen — and there are exceptions — suicide prevention is a joke,” said David Fathi, director of the National Prison Project at the American Civil Liberties Union. “We have seen people able to attempt suicide while supposedly on constant suicide watch. We’ve seen people taken off suicide watch because staff thought they were OK, and then kill themselves that same day. We’ve seen officers who were supposed to be watching someone on suicide watch actually sleeping.”

Attorney General William Barr has taken a bit more action than Sessions, his predecessor. He removed Hugh Hurwitz, the acting director of the BOP, and temporarily assigned Lamine N’Diaye, the warden of MCC New York when Epstein died, to a desk job in Philadelphia. Barr also placed the two employees on watch over Epstein on administrative leave, pending possible criminal charges.

In January, the BOP restricted staff use of cellphones and access to the Internet,
saying they were “unnecessary distractions” of the type that may have contributed to Epstein’s suicide. “When on the job, your full attention should be focused on the behavior of the inmates in your charge and the activity going on around you,” Director Kathleen Hawk Sawyer wrote memorandum distributed across the BOP.

It’s amazing how much accountability suddenly happened when a celebrity, albeit a nefarious one, committed suicide.

Following the death of Whitey Bulger there was an immediate change in leadership at United States Penitentiary Hazelton. Justin Tarovisky, executive vice president of the prison workers’ union at Hazelton, said that conditions there have significantly improved after a surge in hiring followed the assignment of Warden Byron Antonelli.

“It’s a totally different environment,” said Tarovisky. Imagine how much more quickly the BOP (and other prison and jail systems) would see such significant improvements if every suicide were treated with the same shock and outrage that followed in the wake of Epstein’s death. Whether any lasting change results at MCC as a result remains to be seen.

Sources: usatoday.com, nbcnews.com, foxnews.com, gq.com, tampabay.com, forbes.com, nytimes.com, rollingstone.com

Court Confirms Pennsylvania Prisoner’s Sentence in Tobacco Contraband Case

by David M. Reutter

Tobacco is a valuable commodity in jails and prisons because it is considered contraband. Maurice Dewayne Wakefield, II, went to great lengths with a group of prisoners to get another prisoner’s stash of tobacco. The price was a 9 to 18 year sentence.

When prisoner C.S. was transferred from F Block to E Block at Pennsylvania’s Blair County Prison on March 16, 2017, he had hidden loose amounts of tobacco and cigarettes in his shoes and rectum. Throughout the day, he sold the tobacco in his shoes to other prisoners for commissary items. “He also told others he had more but that he had to get it out of his rear,” the Pennsylvania Superior Court wrote in an opinion affirming Wakefield’s judgment of sentence.

Later that night, Wakefield, Charles Frank, Granger, and Moore formed a semicircle around C.S. after he was lured into a cell. Ramsey blocked the door. They demanded the tobacco and said the removal could be done “the easy way” or “the hard way.”

C.S. made an unsuccessful effort to remove the two 4-ounce packets of tobacco, which were wrapped in a gallon-size zip lock baggie, from his rectum.

When that did not work, C.S. was removed from the toilet by Granger and Moore, and Frank used a gloved hand to try to remove the tobacco from C.S.’s rectum. Failing in that effort, hard objects were used in an attempt to remove the tobacco. That effort also failed, and the group punched C.S. several times.

He was then ordered to go to his cell and remove the tobacco from his rectum. He did so but despite threats of harm if he snitched, C.S. told police about the assault after he sought medical attention for injuries he incurred from the incident.

Wakefield and the others were charged with multiple offenses. A jury on April 5, 2018, found Wakefield guilty of involuntary deviate sexual intercourse (IDSI), criminal conspiracy to commit IDSI, assault by a prisoner, terrorist threats, unlawful restraint, false imprisonment, simple assault, and reckless endangerment of another person. The trial court entered an aggregate sentence of 9 to 18 years in prison. Wakefield appealed.

On appeal, the Superior Court found that Wakefield failed to raise objections in the trial court as to the jury not being informed they could use their notebooks during co-defendant Frank’s direct testimony or concerning the introduction of video evidence of the attack on F.D.F. Finding those issues were waived for failure to object, the judgment of sentence was affirmed on November 8. See: Commonwealth v. Wakefield, 2019 Pa. Super Unpub. LEXIS 4210 (Pa. 2019).

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Michigan's new approach to dealing with mentally ill prisoners is not only more humane, it is proving to be more effective at reducing recidivism.

When Heidi Washington took over as director of the Michigan Department of Corrections (MDOC) in 2015, she vowed to change the way mentally ill prisoners were treated. Eliminating their placement in solitary confinement was a top priority.

Woodland Correctional Institution used to be the W.J. Maxey Boys Training School, which was a facility that housed juveniles. It was retrofitted to provide acute and long-term psychiatric treatment. It treats 200 prisoners and houses another 150 to fulfill general prison jobs. There is no wait list for Woodland’s Crisis Stabilization Unit (CSU) and prisoners referred for Woodland by other prisons are usually transported there within 24 hours.

The average stay in Woodland’s CSU is seven days. Most of the prisoners are in Rehabilitative Treatment Services, a partial hospitalization program that lasts six months or longer. Woodland has a unit for prisoners with developmental disorders and houses about 50 prisoners with late stage dementia or mental illness that prevent management in other prisons.

The new approach has seen an 84% decline in the average number of mentally ill prisoners housed in solitary confinement since Washington took MDOC’s reins. In 2015–16, an average of 88 prisoners were in segregation every day. That number was reduced to 14 in 2017–2018, which also coincided with an 84% drop in the number of days mentally ill prisoners spent in segregation.

“It has been a priority of Director Washington to seriously reduce the use of segregation for the mentally ill, with the goal of completely eliminating it as an option,” said MDOC prisoner Chris Gautz.

Woodland has 20 man pods that have a large activity space. Prisoners engage in recreation, a theatre program, and music and art therapy. The set up provides “lots of sunlight,” said Warden Jodi DeAngelo.

“Since I’ve been in mental health, people like (Unit Chief) Miss Trefry assist me, and when I have problems or complications she will make sure I’m safe and I will have a management plan,” said prisoner Damone Signil.

Vocational Villages at prisons in Ionia and Jackson have had a positive impact, for prisoners released from those programs have a 2.2% recidivist rate. Michigan had the eighth best recidivist rate in 2018 at 28.1% within three years of release, according to statistics released in 2019.

“We can focus on security, while still providing comprehensive prisoner training and education,” said Gautz. “And that’s been proven by the fact that since Washington has led the MDOC, the prison population has decreased by more than 5,000, the recidivism rate is near an all-time state low, and we have been able to close three prisons.”

The focus on mental health care needs must also focus on guards, concludes a report that found 24% of them meet criteria for post-traumatic stress disorder. The report further found 49% of MDOC employees have general anxiety disorder, and 19% exhibit alcohol abuse symptoms. The results point to a “mental health crisis” among MDOC employees.

Source: Detroitnews.com, freep.com

$150,000 Settlement for Opioid Withdrawal Death in Indiana County Jail

The Floyd County, Indiana, jail reached a settlement in July in the death of a prisoner related to opioid withdrawal.

Hanna Robb, 23, was booked into the Floyd County Jail on March 25, 2016, for failure to appear for a misdemeanor theft charge. At her court date on March 30, she was sentenced to serve nine days and be released on April 9. Hanna died later that night after returning from court.

Mark Robb, Hanna’s father and the administrator of her estate, filed a civil suit in January 2017 against the Floyd County Sheriff’s Department, Sheriff Frank Loop, and eight other jail staff, including the jail’s medical officer and two nurses.

The complaint outlined a story all too familiar to criminal justice reform advocates familiar with the slow-moving train wreck that is the interaction between the opioid epidemic and this country’s patchwork system of largely unregulated county jails.

Floyd County was, at least on paper, capable of handling prisoners like Hanna who are detoxing from opioids. It had protocols in place for medical observation and prescription medicines to treat acute symptoms, such as seizures, once the staff is notified of a prisoner’s drug dependency. Hanna’s situation is all the more tragic for the staff’s failure to abide by these protocols.

During Hanna’s intake screening, she notified staff that she was dependent on Suboxone, which was prescribed to her through her treatment provider. Further, Hanna had “obvious IV track marks on both of her upper arms.” While her dependence was properly noted in her files, no record exists as to whether she was brought to the attention of the medical staff or was officially placed under medical observation.

She was placed in cell “DX-2,” which is typically reserved for prisoners who have been approved for medical observation, including prisoners suffering withdrawal symptoms.

According to the complaint, “Hanna was vomiting, soiling herself, pale, fatigued, sweating, had sweats and cold chills, and at times could barely stand up. She also showed signs of dehydration, and she had severe migraines and a low pulse rate.” After soiling herself, she was denied access to a change of clothing for three days. “On March 29th, she did not have pants.”

The complaint alleges that jail staff neglected Hanna’s obvious suffering and simply allowed her to die. Sheriff Loop commented to the News and Tribune on May 9, 2016 that “roughly nine out of ten inmates booked into the jail are on drugs
and face withdrawal symptoms. Court documents show the jail’s insurance company agreed to settle the complaint for $150,000.

It remains to be seen how long Americans will tolerate such conditions in county jails. Under no reasonable interpretation of “justice” should Hanna’s nine-day sentence for misdemeanor theft have been allowed to become a death sentence. See: Robb v. Loop, USDC, SD IN, Case No. 4:17-CV-2 RLY.[1]

Additional source: newsandtribune.com

Cook County Jail’s Three Book Possession Policy Constitutional

by David M. Reutter

A n Illinois federal district court granted summary judgment to Cook County in a civil rights action alleging a jail policy that limits its pretrial detainees to possession of three books violates the First Amendment.

The case has a “somewhat convoluted procedural history,” having been to the Seventh Circuit on appeal and was currently before the court after rehearing on Gregory Koger’s claim that a “constitutional violation occurred upon removal of the books from his cell and existed whether the books were destroyed, put in the jail library, or maintained and returned to him upon release.” See: Lyons v. Dart, 901 F.3d 828 (7th Cir. 2018).

The court began its analysis by citing precedent that holds that “Freedom of Speech is not merely freedom to speak; it is also freedom to read.”

It was clear that at some point guards confiscated more than 30 books from Koger without allowing him to choose which three books he wanted to keep, and he never saw those books again. This confiscation occurred as guards enforced jail policy that limited detainees to a total of three books or magazines, excluding religious material.

Jail officials asserted three rationales to support the policy: (1) safety and security, (2) sanitation, and (3) administrative convenience. The court agreed with the defendants “that the mere availability of other materials made of paper does not demonstrate the three-book policy is unjustified.”

In sum, the court found that the defendants asserted legitimate penological justifications for the three-book policy. The court noted that Koger was “allowed to read an average of more than two books or magazines every single day” while at the jail, so he had an alternative means to exercise his right to read.

The court granted the defendants summary judgment, finding the released Koger was not entitled to the requested relief of nominal damages. See: Koger v. Dart, USDC, N.D. Illinois, 2019 U.S. Dist. LEXIS 152878.[2]
Federal Prisoner to Receive Opioid Addiction Medication While Incarcerated

by Kevin Bliss

The Federal Bureau of Prisons (BOP) came to an agreement September 11, 2019, with Leaman Crews to provide him buprenorphine for opioid use disorder (OUD) during his 36-month prison sentence.

Represented by Lauren Bonds of the Kansas Foundation of the American Civil Liberties Union (ACLU) and Anthony Rothert of the Missouri Foundation of the ACLU, Crews filed a motion for emergency injunctive relief, alleging that buprenorphine was prescribed to him for his 10-year-long addiction. He had been using the medication for 15 months and to discontinue it could lead to painful withdrawals and possibly death.

Crews was first prescribed an opioid-based medication after he was involved in a serious car accident. He became addicted and began using money from his job to buy opioids. He sought treatment, and his doctor placed him on buprenorphine to combat his addiction.

The BOP’s policy is to automatically deny buprenorphine to all prisoners with OUD for pain maintenance therapy. After Crews pleaded to a 15-month sentence, his attorney contacted the BOP requesting assurances that Crews would continue his physician-prescribed medication.

Counsel for the BOP would not confirm that the Bureau would deviate from its blanket refusal. Crews’ attorneys then filed a Request for Emergency Injunctive Relief. The motion stated that opioid addiction was a national public health crisis. Statistics showed that 2.1 million Americans suffered from this disease as of 2016.

Overdoses have increased 600% from 1999 to 2017. An average of 130 people each day (or one person every 12.5 minutes) died from opioid overdose.

The President’s Commission on Combating Drug Addiction and the Opioid Crisis put out a Final Report in 2017, which stated that individuals released from prison have an elevated risk of overdosing from opioids if not treated, accounting for nearly 50% of all deaths among those released from prison in 2015.

Medication-assisted Treatment (MAT) is now the standard of care approved by the FDA, World Health Organization, Department of Health and Human Services, the National Institute on Drug Abuse, the Office of National Drug Control Policy, and the Substance Abuse and Mental Health Services Administration (SAMHSA).

“SAMHSA concluded that ‘just as it is inadvisable to deny people with diabetes the medication they need to help manage their illness, it is also not sound medical practice to deny people with OUD access to FDA-approved medications for this illness.” SAMHSA has also highlighted that ‘dosing and schedules of pharmacotherapy must be individualized,’ and that some individuals may require ‘lifelong treatment,’” read Crews’ motion. See: Crews v. Sawyer, U.S.D.C. D. KS, Case No. 2:19-cv-02541-CM-ADM

Additional source: hppr.org

“Free” E-Tablets Are Anything But

by Ed Lyon

A lengthy article concerning e-tablets in state prisons was published in the April 2018 issue of PLN (p.44). One of the warnings set out in that article concerned the high fees accompanying apps for those devices. JPay stands out as a major provider of e-tablets, a variant of Apple’s iPad, bestowing those devices free to entire prison populations in New York state. Global Tel Link (GTL) started doing the same in West Virginia last November.

However, there is no such thing as a free lunch, as the old saying goes and it appears based on subsequent developments that there is no such thing as a free e-tablet either. JPay charges prisoners for books, educational materials, email, games, music, video visits, and other items. About the only free use a prisoner has for an e-tablet is using it as a flat surface to support the paper they use to write letters on.

The pay scale for New York prisoners ranges from $.01¢ to $1.14 per hour. West Virginia prisoners earn between $.04¢ and $.58¢ per hour for working.

Arkansas and Texas are two of the four states that pay their prisoners nothing for the work they are required by law to perform.

JPay charges New York prisoners $2.50 to download a single song. An entire album costs as much as $46.

Public-domain books like Jane Austen’s Sense and Sensibility that are free to the general public cost prisoners 99¢.

Games that are free to the public are not free to prisoners. Bubble Blitz costs $6.99, 2048 Mania is $4.99 and Chicken Town is $6.99. The alleged reason given for the charge for Chicken Town is that prisoners’ version has ad content pop-ups. Since prisoners cannot access the Internet, the ad pop-ups had to be removed from the prisoners’ version. That sounds like chicken something all right.

Thanks to activist involvement by The Online, JPay decided to remove fees for public-domain books but steadfastly refuses to refund charges it collected for previous prisoners’ downloads.

Global Tel Link is JPay’s closest competitor for the literal captive prisoner market. GTL is servicing the West Virginia prison system with free e-tablets. GTL’s scheme is to lift books from the public domain, then charge West Virginia prisoners .05¢ per reading minute. After public condemnation over this egregious practice, GTL magnanimously cut its charge to .03¢ per minute. This charge also covers video games and any music a prisoner listens to. Video visits cost 25 cents per minute and .25¢ for a one-page email with an extra .50¢ for an accompanying photo.

These are quite high charges for a “free” e-tablet, whether one is imprisoned in New York or West Virginia. Both states receive commissions from JPay and GTL from what they charge prisoners for apps and books.

This technology also paved the way for
many state prisons to shut down in-house general reading libraries and limit, if not completely stop, prisoners from receiving books and reading materials sent by free book projects and retail booksellers. Ohio had enacted such a ban but retreated from it as a result of intense public backlash. Ohio prisoners may once again purchase books from vendors, but all purchases must originate from their prison trust fund accounts where all deposits and withdrawals are run by who else? JPay. ▶

Sources: theoutline.com, reason.com, newsone.com, newsweek.com

$12.6 Million Jury Award for Man Denied Medical Care Before Jailed

by David M. Reutter

A California federal jury awarded $12,617,674 to a man who suffered brain damage after San Diego County sheriff’s deputies pulled him away from an examining paramedic and hauled him off to jail.

David Collins called 911 on November 18, 2016, while hallucinating in his home. Deputies Matthew Chavez, David Sanchez, and Steven Block responded to the call. After assessing the scene and Collins, they left. Shortly afterward, Collins went outside his home and fell inside a soft planter close to his residence. Neighbors called 911.

A paramedic responding with the fire department was examining Collins when Sanchez, Chavez, and Block arrived at the scene. The deputies concluded that Collins was intoxicated and pulled him away from the paramedic, who had not completed his evaluation.

Collins’ civil rights complaint alleged that the paramedic found Collins was not intoxicated and that he had no injuries to his face when taken into custody.

Upon arrival at the Vista Contention Center, Collins “had a noticeable abrasion on the right side of his forehead, along with other scratches and bruising on his face. Nurse Jonathan Symmonds conducted the initial medial review and found no medical issues. He authorized placement into a holding cell where Collins fell, striking his head on the floor. Nurse Roela Carolino examined him and authorized Collins to return to the cell. Once again, he fell.

The result of the falls was a “brain bleed.” Collins was transported to a hospital where he was diagnosed with a brain hemorrhage, hematoma on his forehead, an altered level of consciousness, dehydration, and a dangerously low-blood sodium level. He was administered too much sodium too quickly, which increased the level of brain damage. Collins reached a settlement with the hospital and medical defendants prior to trial.

The San Diego County Sheriff’s Office argued that the fact Collins spent the previous two to three weeks drinking beer, playing video games and “not even stopping to attend to his basic human needs” contributed to his illness and injuries.

In a statement after the jury rendered its verdict, Lt. Justin White wrote, “If Mr. Collins had tended to his own needs, first responders would not have been called, and he would not have ended up needing to go to the hospital for treatment.”

It was clear that the jury in its July 26, 2019 verdict felt deputies and jail personnel had a duty to assure Collins received care once he came into their custody. It assessed a percentage of 30, 16, 14 and 40 liability, respectively, against Carolino, Chavez, Sanchez, and Symmonds for the harm caused to Collins.

The jury awarded past economic damages of $71,519 for lost earnings and $256,185 for medical expenses; future economic damages of $1,100,318 for lost earnings; $3,189,652 in medical expenses; $500,000 for past physical and mental pain and $7.5 million in future physical and mental pain.

Collins was represented by attorneys Elizabeth H. Teixeira and Robert F. Vaage. See: Collins v. County of San Diego, San Diego County, California Superior Court, Case no. 37-2017-00028981 ▶

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The April 15, 2018, riot at South Carolina's Lee Correctional Institution (LCI) illustrates the consequences of prison understaffing. That riot was the worst in America's prisons in 25 years. The toll was seven dead and 22 injured. The aftermath was understaffed when hundreds of competing gang members were transferred to the prison before the riot, “exacerbating an already dangerous environment,” the lawsuits allege. Insufficient staff is caused by meager pay in a volatile environment, which causes guards to move on to better employment prospects.

Low pay scales result in guards trafficking in contraband, which creates turf wars and extortion inside prisons. As violence increases, prisoners arm themselves for self-protection. Add a lack of medical and mental health care, and the prison becomes a powder keg.

“It's a recipe for bad things to happen,” said attorney Carter Elliott, who has filed 10 of the 18 lawsuits related to the riot. “If these things keep happening and people keep dying, they are going to get sued.”

South Carolina has seen an increase in prison-related lawsuits in recent years. Between 2013 and May 2019, its insurer paid out $19 million for the prison system, with $11.5 million of that in attorney fees. The number of settlements continues to rise. The state settled 14 suits in 2015, 25 in 2016, and 34 in 2017. In March 2018, prisoner Christopher Squalls received a $150,000 settlement for an incident at LCI during which gang members beat him with metal locks for failing to join the gang. They continued to beat him as he screamed for help.

Lawyers say the rise in settlements is an indication that conditions inside the prisons are deteriorating. Elliott has sued the prison system for 25 of his 30 years as a lawyer, and he has seen ups and downs. He said the violent episodes seem more frequent now. That is borne out by statistics. Five prisoners were killed in South Carolina prisons in 2016. That number grew to 12 in 2018, and nine in the first half of 2019.

The lawsuits say the LCI incident started when two prisoners began fighting. The two guards did nothing to stop it. Instead, they abandoned ship and locked down the unit, leaving the prisoners “alone and unsupervised.” Two hours later, the riot spread to another dorm, and guards reported seeing “numerous hatchets and knives.” The lawsuit filed by the estate of prisoner Raymond Scott says that Scott was attacked and killed while a guard in the Control Room “sat and watched as the violence unfolded.” Some prisoners escaped to the recreational yard and were locked in without aid being rendered.

The riot was a big event, but such incidents occur regularly and point to the need for change. Elliott obtained a $600,000 settlement in 2013 for the estate of prisoner Ricky Cooper. His body was found stuck with pens and safety pins at McCormick Correctional Institution. Swastikas and “pervert” were written on Cooper’s skin. Cooper, a child molester, was found strangled to death.

“With almost every stabbing, every strangling, every death, there’s a good chance they didn’t have adequate people there,” said Elliott. “They can’t stop all the phones, the shanks, the drugs, but they have to do something to get it turned around.”

See: Scott v. Patterson, USDC, D. South Carolina, Case No. 8:19-cv-02057.

Additional sources: postandcourier.com, wmbfnews.com, correctionsone.com

Alabama Jail Guards Face Liability for Inaction to Methadone Withdrawal Symptoms

by David M. Reutter

In an unpublished opinion, the Eleventh Circuit Court of Appeals affirmed the denial of qualified immunity to guards in a civil rights action alleging they were deliberately indifferent to a pretrial detainee’s health issues stemming from methadone withdrawal.

The lawsuit was filed by Whitney Foster, who was booked into Alabama’s Madison County Jail (MCJ) on April 4, 2014. The guards and medical staff at MCJ were aware Foster had been taking 80 milligrams of methadone per day at a methadone clinic.

Within a week of her incarceration, Foster began showing visible signs of methadone withdrawal, as well as elevated blood pressure. Nursing staff with MCJ’s medical vendor, Advanced Correctional Healthcare (ACH), “did nothing to help her.” Instead, guards and nurses accused Foster of “faking” as she slurred her speech, bit her tongue, and exhibited limited control of her body.

By April 21, her condition became “desperate,” and she continued to deteriorate until sent to a hospital on April 23. The complaint alleged that the nine defendant guards and nurses “harassed and ridiculed” her “rather than provide her comfort or adequate medical care.”

On April 22, Foster was found on the floor under her bunk, and a doctor ordered her sent to a hospital “due to signs of a stroke.” She remained in the hospital for three weeks and continues to suffer limited use of her arms and legs, and the repeated stokes and seizures she suffered at MCJ caused permanent neurological deficits and cortical blindness.

She alleged her need for medical care “was such that it would have been obvious to even a layperson that she needed to be sent to a hospital.” Foster further alleged that the guards should have recognized she was not receiving adequate treatment and took action to assist her in receiving the care she needed. The district court denied the motion to dismiss filed by the guards and MCJ’s administrator, Jerry Morrison.

While it is “generally true that a lay correctional officer cannot be liable for medical staff’s diagnostic decisions or be expected to second guess close decisions in most circumstances,” the Eleventh Circuit said it has recognized a “prisoner’s medical situation may in some cases be so obviously dire that correctional officers may be
Florida Prison Isolation Suit Survives Dismissal Stage

by David M. Reutter

A Florida federal district court denied a motion to dismiss a lawsuit alleging that the Florida Department of Corrections (FDOC) policies and practices related to isolation are unconstitutional.

As PLN reported, the Southern Poverty Law Center filed this suit on behalf of five prisoners, and it intends to seek class-action status. The complaint alleged Florida has a statewide policy of isolation of over 10,000 prisoners for at least 22 hours per day in a cell no bigger than a parking space.

The conditions of that confinement are alleged to cause “a substantial risk of serious harm to (prisoners’) mental and physical health.” It also alleged FDOC discriminates against people with disabilities via these same policies. [See PLN, March 2018, p. 44.]

FDOC moved for dismissal. Among other issues, it argued the complaint was a “shotgun pleading.” The court’s order denying that motion shows that FDOC broke out the shotgun in its effort to dismiss the action. The court found the complaint provides it and FDOC “with a shotgun pleading.” The court's order dismissed the action. The court found the complaint provides general examples of the deprivation of exercise. The specifics of those policies and practices, the court said, will be revealed during discovery.

The court further rejected FDOC’s position that the prisoner’s standing should be limited to challenging specific types of isolation and certain prisons they are housed in. It also found that joining all the prisoners’ claims into a single complaint was proper. Finally, it found the complaint stated claims under the Eighth and Fourteenth Amendments, and that the prisoners exhausted their administrative remedies before bringing suit. As such, it denied FDOC’s motion to dismiss. PLN will report future developments in this case. See: Foster v. Maloney, 785 Fed. Appx. 810 (11th Cir. 2019).

It was further alleged that ACH “put cost control over inmate health and safety,” and that Morrison was “on notice that their plan was harmful to the health of detainees and jailees.”

The Eleventh Circuit found these allegations were sufficient to support a claim for relief and order denying qualified immunity. The district court’s order denying the defendants qualified immunity was affirmed. See: Foster v. Maloney, 785 Fed. Appx. 810 (11th Cir. 2019).

Are Phone Companies Taking Money from You and Your Loved Ones?

HRDC and PLN are gathering information about the business practices of telephone companies that connect prisoners with their friends and family members on the outside.

Does the phone company at a jail or prison at which you have been incarcerated overcharge by disconnecting calls? Do they charge excessive fees to fund accounts? Do they take money left over in the account if it is not used within a certain period of time?

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A Georgia federal district court ordered the Fulton County Sheriff to give more out of cell time and to provide sanitary confinement conditions for women at the South Fulton Municipal Regional Jail.

The court’s order came in a lawsuit brought by the Georgia Advocacy Office, a nonprofit serving Georgians with disabilities, and the Southern Center for Human Rights. The 88-page complaint, which sought a preliminary injunction, was filed on April 10, 2019.

According to the complaint, over 200 women are held at the jail, and it is estimated that 60 percent to 80 percent of them experience psychiatric disabilities. The jail responded by confining them “in isolation cells for months on end.” Most of the women were jailed for minor offenses, but they remained in solitary confinement because the jail was understaffed and guards were not trained to deal with them.

The complaint contained 29 pictures that illustrated the deplorable conditions of confinement the women endured. It alleged that during tours women were “found lying on the floor and with feces or food smeared on their bodies and cells.” Trash was found strewn across cells, urine was pooled on the floor, toilets were broken and overflowing, and there was an “overpowering odor of feces, urine, and vomit” that made it difficult to breathe. The women sometimes used their issued bedding to clean up standing water, leaving them to “sleep on cold metal bunks without sheets or blankets.”

The unsanitary conditions were so obvious that guards had a longstanding “custom of donning examination gloves before entering the housing units, and of offering gloves to visitors entering with them.” The “combination of psychiatric disabilities and psychological deterioration induced by the conditions” the women lived in caused some to “lose the will or the ability to conduct personal hygiene. They sleep most of the day and stop showering or cleaning their living areas.”

The lack of recreation, out of cell time for social activity, and treatment were alleged to be constitutional violations. The court agreed following evidentiary hearings in July 2019. It found the plaintiffs were likely to succeed at trial, and that the defendants discriminated against the plaintiffs and denied them access to programs and services based upon their disabilities.

The court’s July 23, 2019, order required the defendants to “develop a system to track each individual’s out of cell time” and “that each woman be permitted at least 1 hour recreation time and 2 hours of daily free time” within seven days. It also ordered that within 30 days each woman in the jail’s isolation cells be offered at least four hours of out-of-cell time at least five days a week, with one hour of that being outdoor recreation or indoor gym time. The jail was also given 30 days to submit a plan “for providing sanitary conditions of confinement and out-of-cell therapeutic activities for each woman” in isolation.

The Sheriff’s Office said it had 90 unfilled positions and lacked the staff to provide four hours of out-of-cell time. As to that argument, federal district judge William M. Ray said, “Funding is really not my concern today.” There is a “drastic need” to fix the problems, he said. He questioned how jailers could live with themselves, saying the evidence he heard should cause those who are aware of the conditions “to have a hard time sleeping at night.”

Southern Center attorney Sarah Geraghty was happy about the court’s order. “The extreme and extended isolation imposed upon women at the jail and the appalling conditions there have long been a recipe for disaster,” she said. “This order is probably going to save someone’s life.” See: Georgia Advocacy Office v. Jackson, USDC, N.D. Georgia, Case No. 1:19-cv-01634.

Additional source: ajc.com

Senator Warren Has Plan To Ban Private Prison Contracts

Massachusetts Democratic Senator and current presidential candidate Elizabeth Warren introduced a plan last June that would essentially ban all government entities, at any level, from contracting with private prison companies.

Senator Bernie Sanders of Vermont, another presidential candidate, also favors banning private prisons. If elected president, Sanders is considering issuing numerous executive actions to circumvent Congress, including one that would abolish private prisons, The Washington Post reported in January.

Warren’s bill has no chance of passing the current Congress. Still, Warren’s idea did not go over well with private prison companies. Politico reports that CoreCivic’s spokesperson Amanda Gilchrist said, “Our company helps keep communities safe, enrolls thousands of inmates in reentry programs that prepare them for life after prison and saves taxpayers millions. It’s unfortunate that politicians advocate against these benefits without themselves providing any solutions to the serious challenges our corrections and detention systems face.”

In January 2020 Warren took her stance farther in a letter to officials at the federal Bureau of Prisons (BOP) as well as those at Immigration and Customs Enforcement (ICE) to express her concern over a series of moves into the private prison industry by high-level BOP and ICE employees during the last three years:

ICE’s acting head resigned to assume a role as Executive Vice President for contract compliance at GEO Group

The ICE official in charge of contracting also resigned in order to become a paid witness for GEO Group in a lawsuit claiming detainees were mistreated

BOP’s assistant director, whose duties included oversight of private prison operators, left to work for GEO Group as its director of operations

The New Orleans field office director for ICE resigned to assume a position at LaSalle, which operates six prisons in the

Fulton County Ordered to Clean Up Repulsive Jail Conditions for Mentally Ill Women

by David M. Reutter

by Scott Grammer
region over which he formerly had control.

“This pattern of high-level ICE and BOP officials leaving their posts to work for the same companies that they were in charge of regulating raises questions and concerns about corruption and compliance with federal contracting and conflict of interest law,” reads Warren’s letter, which was also signed by fellow Senator Kamala Harris of California and Congresswomen Pramila Jayapal and Ayanna Pressley of Massachusetts.

Private prison companies employ professional lobbyists to stop just this sort of legislation from happening. CoreCivic spent some $370,000 on lobbyists just in the first quarter of 2019, retaining the services of Akin Gump Strauss Hauer & Feld, the Gephardt Group, Greenberg Traurig, HHQ Ventures, the Ingram Group, Miller Strategies, the Simmons & Russell Group and the Vogel Group. Another private prison company, Management and Training Corporation, spent over $200,000 over the same period, and hired Brownstein Hyatt Farber Schreck, Squire Patton Boggs and Upstream Consulting. In 2018, CoreCivic spent some $1.43 million on lobbying activities, according to their own report.

Then of course there’s the GEO Group, which spent $370,000 in the first quarter for lobbyists from Ballard Partners, Bradley Arant Boult Cummings, Capitol Counsel, the Da Vinci Group, Lionel Aguirre, Mack Strategies and Navigators Global, not to mention State Federal Strategies, a subcontractor to Capitol Counsel. Avant Bishop Washington & Black LLC registered recently to lobby on GEO Group’s behalf, on the subject of “detention oversight.” Lanier Avant is the registered lobbyist, who according to his disclosure form, was convicted in 2018 for “false statement” and in 2016 for “failure to timely file tax return.”

Warren’s promise to end federal contracting with private prison operators also includes a commitment to deny federal funds to any state or municipality doing business with the companies – effectively ending their ability to operate in the U.S. As of early February 2020, the stock of CoreCivic, with $1.83 billion in 2018 revenues, had lost about one-third of its value over the prior twelve months, while GEO Group, with $2.33 billion in 2018 revenues, had seen its stock price slide 40 percent over the same period.

Warren came under fire for her former investment – ended in 2013 – in a retirement fund managed by Vanguard Group. The right-leaning Washington Free Beacon reported in September 2019 that at the time of Warren’s disinvestment the fund was one of the largest shareholders in the country’s two largest private prison operators, Florida-based GEO Group, Inc. and Tennessee-based Corrections Corporation of America, now called CoreCivic.

“We believe it would be exceedingly difficult to manage our funds effectively and efficiently while seeking to address the many social, political, and environmental concerns of our 20 million clients and the broader global community,” read a statement from the Vanguard Group.

The Washington Free Beacon is backed by billionaire hedge fund manager Peter Singer, who is an activist for conservative causes.

Sources: politico.com; soprweb.senate.gov; CCA 2018 Political Activity and Lobbying Report, freebeacon.com, yubanet.com, seekingalpha.com
Veteran Dies After Beating by Guards at North Carolina Jail

by David M. Reutter

Guards at North Carolina’s Wayne County Detention Center (WCDC) abused and beat to death a mentally ill veteran who was arrested for breaking the window out his neighbor’s truck in May 2017, a civil rights complaint alleged.

Graydon “Jerry” Parker, III, 54, served two years in the Army with the 182nd Airborne division. On the morning of May 20, 2017, he was arrested for breaking the truck window, telling the deputy he did it “because God told me to.”

During transport to WCDC, a deputy heard Parker singing and mumbling while observing he had a “thousand-yard stare.” He was charged with injury to personal property and resisting an officer, both misdemeanors.

The civil rights complaint filed last May alleged it was obvious, even to lay persons, that Parker was in the throes of an “acute manic state and experiencing a psychiatric emergency.” Yet he was not rendered treatment or even screening for mental-health issues upon booking. Guards, instead, “misperceived him as a disruptive inmate or an intoxicated inmate beyond reasonable comprehension levels.” That led them to pepper spray him several times in the face and drag him to the shower area.

Once there, Parker was sprayed again. Guards undressed Parker and “shot him with a water hose” as he laid facedown. When he defecated himself, he “laughed at it like he did not care.”

Once they finished hosing him down, he was placed on a blanket and placed in an isolation cell. He continued to mumble to himself and to talk unintelligibly. LPN Christina M. Driver, who worked for WCDC’s private medical provider Southern Health Partners, tried to talk to Parker while he was in the cell, but she did not assess or screen his condition, provide treatment, or contact a physician. Once she left WCDC that afternoon, no other healthcare workers were present for the weekend.

Parker continued in his state up until the night shift arrived. Shift personnel were apprised of Parker’s condition as being “drunk or mentally unstable.” Around 9:00 p.m., his mental condition deteriorated significantly.

The response to Parker smearing feces on the cell walls and banging his head and hand on the window was pepper spraying. He was again dragged to the shower area. He yelled when sprayed with hot water. Guards Xavier Lee, Brent Woodall, Jose Arias, Robert Hines, and Nathaniel Neal then began attacking Parker as Trooper Charles Grainger watched, the civil rights complaint filed on behalf of Parker’s estate claims.

Parker was tasered on several occasions, hit with an electric shield as he laid on the floor, kicked, stomped, kneeed, stomped, and placed in a chokehold over a 15-minute period as guards made efforts to hog-tie him. Grainger assisted in the hog-tie effort, encouraging the guards to “knock him out.” That was achieved by tasering Parker several times while restrained as he laid on his stomach.

Once Parker was unconscious and hog-tied, guards left him and made periodic checks until they noticed he was “turning blue and not breathing.” When EMS arrived, the guards refused to remove the hog-tie restraints, so efforts at CPR were made with them on. Parker’s heart was restarted, but he never recovered consciousness and was pronounced dead at 2:35 pm on May 21, 2017.

The civil rights complaint alleged the defendants were deliberately indifferent to his serious medical needs and used excessive force. It further alleged policies and procedures in place allowed these violations of Parker’s rights to occur.

“It’s something that was completely preventable,” said attorney Matthew Sullivan, who is representing Parker’s 74-year-old mother, Margaret Jean Kelly. “They didn’t do what they should have done to keep this from happening.” See: Kelly v. Wayne County, USDC, E.D. North Carolina, Case No. 5:19-CV-03137. ▶

Report Decries Ongoing Inadequate Medical Care for Pregnant Arizona Prisoners

by Matt Clarke

ACLU and Prison Law Office attorneys representing Arizona state prisoners toured the Perryville prison for three days in April 2019, interviewing 25 women who had recently given birth or suffered miscarriages in prison. The report they gave the court describes “shocking and horrifying” stories of a “deficient” and “dangerous” lack of prenatal and postnatal care with some women needlessly miscarrying and others giving birth alone in their cells.

“They are being horribly mistreated by the health care staff and the custody staff,” said Prison Law Office attorney Corene Kendrick. “They’re not being provided adequate nutrition. They’re not being given adequate hygiene supplies. The postpartum depression mental health care is minimal, if existent at all.”

The state Department of Corrections (DOC) is under a federal court order to improve health and mental health care to its 33,000 prisoners, pursuant to a 2015 class-action settlement reached with the ACLU and Prison Law Office on behalf of prisoners they represented in Parsons v. Ryan.

The attorneys’ visit followed similar tours beginning in December 2018, which have also taken them to state prisons in Florence, Tucson, Phoenix and Eyman. The attorneys put their findings into letters delivered in May 2019 by ACLU and Prison Law Office to invoke – for the first time – their plaintiffs’ rights under the 2015 Parsons settlement to suggest corrective action against DOC’s health care provider, Nashville-based Corizon Health, the nation’s second-largest private prison contractor with at least $1 billion in annual revenue.

In their letters the attorneys reported pregnant prisoners being given only an extra peanut butter sandwich and glass of milk to supplement their diet, which has limited access to fruits and vegetables. Corizon gave them only thin panty liners to deal with bleeding despite a 2018 DOC policy change to up the number of sanitary pads.
provided pregnant prisoners from 12 to 36.

The attorneys also discovered breaches of other DOC policies. For instance, one pregnant woman who was miscarrying was shackled while being transported to a hospital. Arizona state law prohibits the shackling of pregnant prisoners. The prison also failed to give pregnant heroin users methadone.

“Proper treatment for women who have reported using heroin when they were pregnant is to immediately put them on methadone,” said Kendrick. “That’s to manage any withdrawals and to also mitigate the possibility of miscarriage.”

One prisoner, who had been diagnosed with schizophrenia and was seven months pregnant when she arrived at the prison, gave birth on the toilet alone in her solitary cell. Three days earlier, she had reported that her water had broken and was taken to a hospital. But she was returned to the prison without a checkup. Obviously, they need more than two or three minutes of therapy or counseling.”

In their suggestions, the attorneys said Corizon employee Dr. Vicente Enciso, the Perryville prison’s OB-GYN, should be held accountable for poor medical care. Kendrick said her office had received complaints about Enciso as far back as 2011. One particularly egregious case involved a woman whose C-section wound became infected and was treated by packing the wound with sugar instead of being taken to a hospital.

No reliable government statistics on pregnancy in prisons and jails in every state have been collected since 2004, according to the Prison Policy Initiative. At that time the share of female prisoners who were pregnant in federal, state and local lockups was 3 percent, 4 percent and 5 percent, respectively.

Sadly, poor health care for pregnant women and even giving birth in a cell is nothing new for Perryville prisoners. In 1988, Dena Dugan, then 21, gave birth in her cell with a guard assisting. Dugan had told a nurse she might be pregnant, but the nurse refused to give her a pregnancy test after failing to detect a fetal heartbeat with a stethoscope.

Sources: kjzz.org, azcentral.com, afsc.org, theatlantic.com, Prison Policy Initiative

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**$300,000 Settlement in Lincoln County Missouri Jail Attempted Suicide Suit**

*by Chad Marks*

Mark A. Jaconski was arrested on June 17, 2015, for outstanding traffic warrants and taken to Mercy Hospital for a “fit for confinement” determination. Hospital officials made that determination and Jaconski was transported to the Lincoln County Jail in Missouri.

No mental health screening was done of Jaconski upon his admittance to the jail. Jaconski’s mother made numerous attempts by telephone to inform jail staff that her son had a mental health history that included prior suicide attempts and his need for prescribed medication. None of Monica Brown’s messages were returned. Jaconski himself requested to see nurse Tanya Drummond numerous times, all to no avail.

After two days at the Lincoln County Jail, Jaconski was brought before a municipal court judge on June 14, 2015. That judge ordered his release on his own recognizance.

Once returned to the jail, Jaconski was returned to the general population with no notification from jail guards as to when and if he was going to be released. During the noontime meal, Jaconski reported to Sergeant Noland that he was hearing voices and wanted a cell by himself. He told Nolan that he was bi-polar and schizophrenic, had not been taking his prescribed medication, and that he was going to hurt himself.

Jaconski was placed in an isolation cell with no action as to his medical needs. He told the guards on the way to the isolation cell that he did not want to be by himself—that he wanted to be in a place he could be observed because he felt like he was going to hurt himself. Those requests were denied.

True to his word, Jaconski was on a crash course to hurt himself. After being left in the cell for 40 minutes to one hour with no one checking on him, he was found hanging by the neck from his pants tied to the top bunk rail. Jaconski was transported to the hospital where he stayed the next several months. On January 22, 2016, he died due to complications from his injuries suffered at the Lincoln County Jail.

Jaconski’s mother, Monica Brown, filed a civil rights action for monetary relief in federal district court pursuant to 42 U.S.C. § 1983. She argued Lincoln County had a policy, practice and custom of failing to monitor, train, discipline, and supervise its employees. In addition, Brown alleged the torts of medical malpractice and wrongful death.

Rather than putting the gloves on and fighting it out in court, Brown and Lincoln County decided to settle the case for $300,000. As part of that settlement, Lincoln County was able to deny any fault for Jaconski’s injuries or death despite the evidence suggesting otherwise. See: Brown v. Drummond, Missouri Eastern District Court, Case no. 4:17-cv-01679.

Sources: stltoday.com, fox2now.com

**$550,000 Settlement in Nationwide Class-Action Lawsuit Over High-Fee Debit Cards**

*by Matt Clarke*

On September 20, 2019, an Ohio federal court granted preliminary approval of a settlement in a class action lawsuit against Stored Value Cards, Inc., doing business as Numi Financial, and Republic Bank & Trust over jails using their high–fee debit cards to return prisoners’ funds upon release from jail.

The settlement is for up to $550,000, including up to $250,000 in attorney fees and costs, and up to $15,000 as an incentive award to the named plaintiff. There are an estimated 180,000 class members.

Class attorneys Matthew A. Dooley, Ryan M. Gembala, and Stephen M. Bosak of Sheffield Village, Ohio, assisted former Lorrain County jail prisoner Amber Humphrey in filing a class–action lawsuit against the defendants over prisoners released from jails being given activated “Numi Financial” debit cards containing the funds from their prisoner trust funds without their having agreed to the terms of the cards, or having been given information on account terms, fees, and charges, and without having signed any agreement or contract.

The complaint alleged the defendants charged excessively high ATM fees, account maintenance charges, and transaction fees. For instance, the defendants could charge a $2.50 weekly service fee, a $0.95 fee for each declined transaction, and a fee of up to $2.95 for each transaction made with a Numi Financial debit card.

The lawsuit alleged defendants’ action violated the Electronic Funds Transfer Act (EFTA), 15 U.S.C. § 1693, et seq., and constituted Ohio state torts of conversion and unjust enrichment. The court certified three classes: 1) the EFTA class, which consists of all persons in the U.S. who were taken into custody at a jail, correctional facility, or any other law enforcement facility, and upon release were issued a pre-activated debit card by defendants to access a bank account containing any funds remaining in their trust fund account within one year prior to the filing of the original Complaint in this action and during its pendency; 2) the Ohio Conversion class; and 3) the Ohio Unjust Enrichment class, which have similar definitions, but are limited to persons taken into custody in Ohio from whose accounts defendants deducted any fees within four years prior to the filing of the original complaint for the Ohio Conversion class and within six years for the Ohio Unjust Enrichment class. According to court documents, the original complaint was filed on April 3, 2018.

Any person released from custody and issued a Numi Financial debit card for their trust fund balance who is within the class parameters must submit a claim form, which is available at www.numicardsettlement.com.

A valid claim entitles the claimant to a pro-rata portion of the settlement fund after class administration costs, Humphrey’s service award, and attorney fees and costs are subtracted.

Because the class size is estimated to be 180,000, this leaves only about $1.50
A former Pennsylvania pretrial detainee who sustained serious injuries from a guard’s use of excessive force received a $250,000 settlement.

As guard Christopher Refner was making rounds at the Luzerne County Correctional Facility on June 28, 2016, he smelled marijuana and began to investigate. He determined its source came from the cell occupied by pretrial detainee Edward Hernandez and his cellmate.

To corroborate his suspicions, he decided to have them and another detainee undergo urinalysis drug testing, which was done in another part of the jail.

As Refner was escorting them to that location, Hernandez and Refner “engaged in back-and-forth banter” about Hernandez’s use of marijuana. As the exchanges continued and became more heated, Refner decided it was necessary to handcuff Hernandez, and he ordered him to put his hands on the wall.

According to the civil rights complaint, Hernandez was successfully handcuffed. Refner then pulled Hernandez’s “arms up towards the middle of the back,” causing him “extreme pain as a result of a prior shoulder injury.” After Hernandez complained about this treatment, Refner “unleashed a violent assault” upon Hernandez.

Refner allegedly wrapped his arms around Hernandez, proceeded to lift him in the air, and slammed him head first onto the concrete floor. Hernandez sustained a broken neck, ruptured discs in the cervical area, and required 28 stitches to his scalp. Luzerne County argued in court pleadings that Hernandez “continued to resist, struggle, exhibit violent conduct, and disobey orders.” It asserted that behavior forced “Corporal Refner … to use reasonable and necessary force.”

Video of the incident was provided to Hernandez and the county’s insurance company, but it was not distributed publicly due to “prison safety issues.”

The complaint cited three different lawsuits that alleged Refner used excessive force while a police officer or as a jail guard, which showed he “has a record and assaultive behavior towards citizens and inmates.”

At a May 14, 2019, meeting, the Luzerne County Council approved the $250,000 settlement. It will pay $50,000 as an insurance deductible and its insurance company will pay the remainder. Hernandez was represented by attorney Matthew T. Comerford. See: Hernandez v. Luzerne County, USDC, D. Pennsylvania, Case No. 1:16-cv-02407.
Most States Saw Criminal Justice Reforms in 2019, But Incarceration Rates Remain High

by Victoria Law, reprinted from Truthout

On December 20, 2019, criminal justice advocates celebrated the news that President Trump signed the Fair Chance Act into law. Tucked into a massive defense spending bill, the law is a federal version of “ban the box,” prohibiting the government and its contractors from asking job applicants about their criminal history before extending a conditional offer of employment. Thirty-five states and over 150 cities already have versions of “ban the box” laws.

That’s not the only criminal justice success this year. 2019 has seen an outpouring of local and state efforts to stem the tide of mass incarceration, from bail reform and mass bailouts, to efforts to close jails and legislation to divert people from lengthy prison sentences. Criminal justice reform has even become a talking point for candidates seeking the presidential nomination in 2020.

But what can we expect in 2020? Will reform efforts lead to a substantial decrease in mass incarceration and criminalization across the nation? Or will mass incarceration and criminalization shift to regions with less organizing and fewer resources?

Prison populations are dropping, but only minutely: From 2016 to 2017 (the latest year for which numbers are available), state and federal prison populations decreased 1.2 percent (or 18,766 people). In a nation where nearly 1.5 million people are in prison and at least 4.9 million people are arrested and jailed annually, the drop is not precipitous.

Wanda Bertram, communications strategist for Prison Policy Initiative, said that most of these changes are driven by declines in the federal prison population and in a handful of states. “These declines are real and those lives are important,” Bertram told Truthout. But, she noted, reforms have not taken hold in every state or even within a given state, leading to unevenly distributed progress not only between states, but also between different counties. For instance, while jail populations have been decreasing in urban areas, they have been increasing in rural jurisdictions. At the same time, law enforcement may undercut prosecutorial reforms. In Baltimore, for instance, police continue to arrest and jail people for offenses that prosecutor Marilyn Mosby has stated that she will no longer prosecute.

Reforms also seem to have left many women behind bars. While men’s incarceration — both jail and prison — has decreased, women’s incarceration has not seen similar declines and, in some states, is even increasing. “That’s because people aren’t catching onto the reality that women are [still] going to prison at higher rates and getting out at lower ones,” Justine Moore, a founding member of the National Council for Incarcerated and Formerly Incarcerated Women and Girls, told Truthout.

The contrast has been particularly striking in local jails: Since 2008, men’s jail admissions have declined by 26 percent. Women’s admissions, however, have increased both as a total number and as a proportion of all jail admissions. Today, women comprise nearly one of every four jail admissions; in 1983, they made up fewer than one in ten. As of 2013, nearly 110,000 women were in jail, accounting for approximately half of all women behind bars.

From 2016 to 2017 the number of women in prison nationwide dropped by 470 (or 0.4 percent); in contrast, the number of men in prison dropped by almost 18,300 (1.3 percent). Texas had the greatest reduction in its women’s prison population; during that same time period, Tennessee increased its women’s prison population. The imprisonment rate for women remains highest in Oklahoma (157 per 100,000 female residents of the state). Women make up over 30 percent (or 3,863 women) of Ohio’s prison population; the most common convictions are drug-related. As reported previously by Truthout, women are offered fewer alternative-to-incarceration and diversion programs than their male counterparts.

Despite these seemingly small numbers, advocates, including formerly incarcerated people, have been organizing to bring these numbers down even further. “I think we can expect legislators to remain intransigent, but grassroots movements to get stronger,” predicted Bertram.

In New York and California, advocates have pushed for — and won — bail reform, eliminating cash bail for certain charges (though many remain wary that risk assessment tools could lead to greater surveillance). New Jersey and Alaska largely eliminated cash bail, utilizing instead a point-based system to determine whether people should be released from custody, held in jail until trial, or subjected to other types of monitoring (such as house arrest or electronic monitoring).

But such efforts have also faced backlash: In New York, even before bail reform took effect on January 1, district attorneys, judges and legislators on both sides of the aisle charged that it endangered public safety and called for the law’s revision, if not outright repeal. During the first week of the new law, some assistant district attorneys continued to request bail; in others, prosecutors filed more serious charges, allowing judges to set bail. Both the governor, who signed bail reform into law, and the state senate majority leader have stated that they are open to re-examining the law.

In New Orleans, grassroots organizers partially stymied the sheriff’s proposal to build a 6,000-bed jail; the city council gave preliminary approval to cap the jail’s population at 1,250 people. In Arapahoe County, Colorado, voters rejected a tax increase that would build a $400 million new jail. “If people at the grassroots level can organize against jail expansion, then we can really start to close mass incarceration’s front door,” said Bertram.

Other efforts to close that front door focus on sentencing reform. In May 2019, formerly and currently incarcerated women in New York celebrated when the governor signed the Domestic Violence Survivors Justice Act into law. The Act allows judges to mete out sentences that are significantly shorter than the sentencing guidelines or divert a survivor from prison altogether if abuse played a significant factor in the conviction. The Act applies to survivors who harmed their abusers as well as those
coerced into crimes by abusive partners.

In one of the first hearings after the law took effect, the judge decided against applying the law’s sentencing provisions to 26-year-old Taylor Partlow, whose manslaughter trial included five witness testimonies about her boyfriend’s abuse. “The abuse, number one, was not substantial abuse and not a significant contributing factor to your behavior,” he said at the sentencing hearing. “But I do agree there was domestic abuse.” Despite his declaration, the judge sentenced Partlow to eight years in prison, the sentence suggested for manslaughter under the Domestic Violence Survivors Justice Act, instead of the 25 years recommended by the state’s sentencing guidelines.

**Expanding Opportunities to Come Home**

Advocates have also worked to expand opportunities for release. New York’s Domestic Violence Survivors Justice Act also allows imprisoned survivors to petition for resentencing if they can provide evidence that abuse was a significant factor in their conviction. Advocates are currently working with incarcerated survivors to apply for and gather evidence of abuse to bolster their petitions for resentencing.

Organizers with Release Aging People in Prison (RAPP) and the Parole Preparation Project have demanded that New York’s governor not reappoint parole commissioners known to be punitive and instead appoint new commissioners with backgrounds outside of law enforcement, resulting in the appointment of six new commissioners in June 2017. The previous month, according to RAPP, New York parole commissioners had released only 24 percent of those applying for parole.

The board’s new composition seems to be increasing the number of releases: By December 2018, the parole rate had increased to 40 percent. Among those released were people who had been denied parole repeatedly, including Jose Saldana, who was imprisoned 38 years and denied parole four times; and two former Black Panthers — Herman Bell, who was imprisoned 45 years and denied parole seven times, and Robert Seth Hayes, who was imprisoned 45 years and denied parole 10 times. In 2019, the parole rate hovered between 36 and 45 percent.

This month, parole justice advocates will again head to Albany to push for the Elder Parole bill, which would require an immediate parole interview for people ages 55 and older who have served at least 15 years. Of New York’s 45,986 prisoners, 5,767 (or 12 percent) are ages 55 or older.

Saldana, now the director of RAPP, notes that many people currently aging in New York’s prisons have sentences leaving them ineligible to apply for parole for decades. He points to 61-year-old Valerie Gaiter, who died in prison in August 2019. During her 40 years in prison, Gaiter trained service dogs for wounded veterans, ran the photography program, facilitated the prison’s anger management program, earned multiple degrees and mentored other women. Gaiter had been sentenced to 50 years to life, rendering her ineligible to appear before the parole board until she had spent half a century in prison. She died of cancer 10 years before reaching that date. “That’s why it’s so important that this bill is passed, because if it isn’t, we’re going to have more tragedies like Val Gaiter’s,” Saldana said.

In Missouri, advocates with the Smart
Sentencing Coalition pushed HB192, which changed the state’s minimum prison terms for people with prior prison records. Previously, people with prior prison sentences were required to serve 40 to 80 percent of their sentences before becoming parole eligible. Signed into law in July 2019, HB192 changed that requirement for people sentenced to Missouri state prisons for nonviolent convictions; it also made the change retroactive. “We’ve been working on this for a few years,” said Patty Berger, an organizer with the St. Louis chapter of All of Us or None, a nationwide advocacy network of formerly incarcerated people, whose members met with Missouri legislators to convince them of the bill’s importance. Between September and December, approximately 200 people were released early due to HB192. Next year, the coalition will be advocating for the Primary Caretakers Act, which encourages judges to consider non-prison sentences for parents and caregivers. (Similar laws have already passed in Massachusetts and Tennessee.)

In California, where more than 5,000 people are serving life without parole (LWOP), organizers with the Drop LWOP campaign are pushing Gov. Gavin Newsom to commute LWOP sentences into parole-eligible sentences. Among these organizers is Kelly Savage who, in 1998, was sentenced to LWOP after her husband killed her 3-year-old son. In December 2017, Savage learned that then-Gov. Jerry Brown had commuted her sentence to 25 years to life, making her eligible to appear before the parole board. She recalls walking back to her unit, thinking, “I’m not gonna die here.” Eleven months later, she was released.

Now the program coordinator for Drop LWOP, Savage is organizing to push the new governor to extend the same opportunity for a second chance to the thousands in California’s prisons. She’s also educating legislators about the issue as well as engaging and organizing with family members whose voices, she said, “have been silenced for so long. We’re trying to show them that it is possible to engage and speak up for their loved ones and educate people around them.”

Not every state is embracing reform. Alaska lawmakers are currently unraveling the state’s recent reforms. Alaska passed Senate Bill 91, a 2016 bill that reduced the use of both cash bail and incarceration, decreasing the number of people behind bars by 7 percent (or 430 people). In 2018, however, Republican Mike Dunleavy swept into the governor’s office under the slogan “Make Alaska Safe Again” and began efforts to repeal Senate Bill 91. He also signed a new crime bill making simple drug possession an arrestable offense and increasing prison time for offenses whose sentences had been previously reduced. These efforts have already increased the prison population by 5 percent. The increase, coupled with a shortage of prison staff, has spurred officials to consider contracting with private prison corporations to imprison people in other states, a contrast to other states’ elimination of private prison contracts. “It seems like the whole country except Alaska is moving forward on prison reform,” said Kayla, currently in an Alaska prison and who asked that her real name not be used, wrote in a letter to Truthout. “We’re moving terrifyingly backwards.”

That’s why Bertram and others believe that stopping mass incarceration needs to come from grassroots organizing, not politicians. “There’s always new opportunities for lawmakers to garner support with their constituents by appearing tough on crime,” Bertram said. “To really bring down incarceration, we’re going to have to collectively force the people that represent us to stop relying on that kind of pandering. I think we can expect legislators to remain intransient but grassroots movements to get stronger.”

From Missouri, Berger agrees. Noting the significance of prison reform in a red state, Berger said, “Not only is it good for incarcerated people, but it was good for us to have a victory.”

About the author: Victoria Law is a freelance journalist who focuses on the intersections of incarceration, gender and resistance. Her first book, Resistance Behind Bars: The Struggles of Incarcerated Women, examines organizing in women’s jails and prisons across the country. She writes regularly for Truthout and is a contributor to the anthology Who Do You Serve, Who Do You Protect? Her next book, co-written with Maya Schenwar, critically examines proposed “alternatives” to incarceration and explores creative and far-reaching solutions to truly end mass incarceration. She is also the proud parent of a New York City high school student.

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Santa Rita Sheriff’s Office Says Prisoners Not Being Maltreated; Prisoners’ Protest Says Otherwise

by Kevin Bliss

Detainees and prisoners at the Santa Rita Jail (SRJ) in Dublin, California, participated in a peaceful protest over the unsanitary and unconstitutional conditions in the jail. Beginning October 30, 2019, between 300 and 400 prisoners engaged in a six-day hunger strike and work stoppage. They supplied a list of 26 demands to be met to end their protest.

Prisoners at SRJ said the facility’s living quarters are unhealthy and cleaning supplies are only issued once a week. They said medical and mental health care needs are being neglected. Moreover, the facility does not have a law library for federal detainees, preventing them from preparing for their defense.

A spokesperson for the Alameda County Sheriff’s Office, Sgt. Ray Kelly, said the jail spends $75,000 per prisoner each year to provide adequate food, clothing, and medical care. They have access to their families, legal advice, and religious leaders. “[Prisoners] are not being maltreated,” he said. “The conditions are better than some of the conditions that they have in our community. Let’s talk about the inhumanity of people living on the streets in our communities. There would be no way our facility would be allowed to function or run if the conditions were as described.”

Attorney Yolanda Huang said SRJ is one of the worst jails in the Bay Area. “They are extremely disorganized and the facility
Sacramento County Jail Settles
Solitary Confinement Class Action Suit

by Scott Grammer

Sacramento County has two jails, which together house about 3,800 people at any one time. A July 2018 complaint filed in federal court by Lorenzo Mays, Ricky Richardson, Jennifer Bothun, Armani Lee, Leertese Beirge, Cody Garland, and the Prison Law Office and Disability Rights California, claims that the county “regularly subjects people in its custody—the majority of whom have not been convicted of any crime—to harsh, prolonged, and undue isolation.”

“Every day, Defendant locks up hundreds of people in solitary confinement in dark, cramped, filthy cells for 23 ½ hours or more per day,” says the complaint. “Defendant subjects people with serious mental illness to extreme isolation, with little or no mental health treatment. More than one-third of Sacramento County’s jail population has a mental illness, including dozens of people waiting for psychiatric inpatient placements in state hospitals. Yet Defendant fails to provide adequate mental health care, including basic measures to prevent suicide and self-harm.”

On September 14, 2019, the parties reached a preliminary agreement on a consent decree to bring the jail up to Constitutional standards. The court approved $2,100,000 in attorney fees for the plaintiffs as the prevailing parties and approved an annual cap of $250,000 in attorney fees for monitoring compliance with the consent decree. The settlement was sealed by the court on January 13, 2020. (See Mays v. County of Sacramento, U.S.D.C. E.D. Cal., Case No. 2:18-cv-02081 TLN KJN.)

The complaint described the jail’s consistent failure to provide medical care. Mays, one of the plaintiffs, spent almost eight years in solitary confinement while awaiting trial, over 23 hours a day. He suffered depression, hallucinations, suicidal thoughts and was diagnosed with a vitamin D deficiency due to lack of exposure to sunlight. Plaintiff Beirge was in solitary for seven months while waiting for mental health treatment.

Plaintiff Lee, who had a broken pelvis when he arrived at the jail, was not provided with a wheelchair. He was also diagnosed with bipolar disorder, and has a history of suicide attempts. The jail placed him in “disciplinary isolation” and he was not allowed to leave the cell for weeks nor even allowed to shower. Jail staff went as far as to cover his cell window to increase his isolation.

According to a fact sheet released by Disability Rights California, the agreement includes remedying the “illegal and dangerous conditions” in the jails, “including those related to the treatment of people with disabilities, the provision of mental health and medical care, suicide prevention, and the use of solitary confinement.” The county has also agreed to reduce the population of the jails, and to make changes to the jail’s physical plant – the building itself. The agreement also places limits on the use of solitary confinement, which jail and prison guards euphemistically refer to as “segregation.”

Tifanei Ressl-Moyer, a staff attorney with Disability Rights California, said in a statement, “The County will fail to meet the needs of people in Sacramento if it simply pours money into the jail. It must invest in community services and programs designed to prevent recidivism and reduce the need to incarcerate people who are homeless or have serious mental illness.”

Other sources: disabilityrightsca.org, sacbee.com
The United States Southern District Court of New York ruled that Nicole Morrison could proceed with her claim against the U.S. for its negligence in the death of Roberto Grant while in custody at the Metropolitan Correctional Center (MCC), the same prison where Jeffrey Epstein died. “Roberto Grant was beaten to death in an MCC dormitory,” the court ruled.

Grant pleaded guilty to a series of jewelry store heists in August of 2014. Thereafter he told his ex-wife, Morrison, that he was being harassed and physically threatened by guards at MCC. (The suit implied the guards were Lee Plourde and Michael Kearins). Grant was found dead in the dormitory on May 19, 2015. Morrison and Grant’s mother, Crecita Williams, were told he died from a K-2 overdose.

The autopsy report stated that Grant had no narcotics or alcohol in his system but did have a series of lacerations and contusions on his upper body “suggesting blunt force trauma.” Morrison, through attorney Andrew Laufer, filed a $20 million suit alleging Bivens and Federal Tort Claim Act (FTCA) violations against the U.S., the Bureau of Prisons (BOP), and Plourde and Kearins.

The Court held that Bivens claims are limited to federal officers in their individual capacity in unreasonable search and seizures, gender discrimination, and inadequate medical treatment. Also, it must be alleged that the defendant was personally involved in the action initiating the complaint. Morrison’s complaint suggested that a cover-up occurred and that Grant was subjected to inadequate medical treatment with deliberate indifference.

The Court held that Plourde’s comment that Grant died from a drug overdose did not automatically indicate a cover-up and that there were no allegations that Grant was deprived of medical attention when needed. Deliberate indifference required actual knowledge of a need and a conscious choice to ignore that need, the Court said. The Court said there was no evidence that Plourde or Kearins was involved in Grant’s death.

It held that Morrison made sufficient claims of negligence against the Government to proceed on the FTCA claim. “Contrary to the government’s assertion, this is not a case involving an ‘unadorned, the-defendant-unlawfully-harmed-me accusation,’” the opinion said. “Rather, this tragedy had to stem from a cascade of failures and seems like a case where the matter speaks for itself.”

Referring to the death of Jeffrey Epstein in the same jail, the court observed: “Recently, the death of a high-profile defendant reinvigorated public scrutiny of MCC.” The unexplained circumstances surrounding Mr. Grant’s death raise troubling questions about the BOP’s oversight of individuals remanded to its custody. Mr. Grant’s relatives—and the public—have an interest in learning what happened.”

The Court dismissed the Bivens claims against all defendants and the FTCA claims against the BOP and guards, and granted the FTCA claim against the United States. See: Morrison v. United States, 2019 U.S. Dist. LEXIS 180738. Additional sources: innercitypress.com, dailymail.co.uk, nypost.com

18-Month Prison Sentence for Former Alabama Sheriff in Food Bank Scam

The former sheriff of Alabama’s Pickens County was sentenced to 18 months in federal prison for a scam to defraud a food bank and his church, and pocketing leftover funds to feed detainees.

David Abston was sheriff for 32 years. As allowed by Alabama law, he was allotted a budget each year to feed the persons housed in his jail, and any monies leftover at year’s end was his to keep. The scam that put him in prison aimed to lower the cost of feeding prisoners and fatten his pockets.

Abston submitted an application with the West Alabama Food Bank (WAFB) to become a partner, and he convinced his church to create a bank account for a food pantry and to partner with WAFB. The application claimed the “general program” of the church pantry was to help feed “children from disadvantaged and poor neighborhoods.”

WAFB’s charges a nominal fee for the cost of food maintenance and storage and requires its partners to certify the food they receive serves only the ill, needy, or infants. Abston, however, used the partnership to reduce the costs of feeding the poor souls who landed in his jail.

The scam began in 2014 and continued until 2018. Abston resigned as sheriff when he was indicted in June 2019 on seven counts of wire fraud and two counts of filing a false tax return. He entered into a plea agreement on June 14 to one count of each charge. Abston and his attorneys argued “a term of incarceration will not make him a better person, nor will it improve society.”

Prosecutors pushed for a prison sentence. “The defendant did not merely commit fraud or cheat on his taxes,” they wrote in a court filing. “He orchestrated a criminal scheme that preyed on a nonprofit and the needy people it serves. Over a four-year period, the defendant took nearly half a million pounds of food from WAFB almost for free.”

The federal district court sentenced him on November 25, 2019.

The court agreed prison was a just consequence, and it sentenced Abston, 68, to serve 18 months in prison and to pay $86,335.57 in restitution to WAFB. See: United States v. Abston, USDC, N.D. Alabama, Case No. 7:19-cr-00312. Additional sources: al.com, ajc.com
President Trump purchased an ad during the February 2 Super Bowl directed at African American voters that depicted black grandmother Alice Johnson in tears, saying, “I’m free to hug my family. I’m free to start over. This is the greatest day of my life ... I want to thank President Donald John Trump. Hallelujah!”

The 63-year-old Johnson had served almost 20 years of a life sentence for nonviolent drug-related crimes. Trump pardoned Johnson upon the recommendation of celebrity Kim Kardashian West. But what of the tens of thousands of other prisoners in situations similar to Johnson who don’t have a celebrity endorsement?

Nichole Forde, speaking about her own petition, said, “I almost wish it would get denied. At least I would know that someone had looked at it.” Serving a 27-year sentence for nonviolent drug crimes, Forde handwrote and then submitted her petition from prison in 2016. Prisoners cannot submit another petition until the previous one is decided.

As of January 2020, about 7,600 petitions for presidential pardons had been filed since Trump took office. Around 78 percent (5,900) of those petitions were closed by the pardon office because the prisoner had been released, died, or was ineligible.

Combined with the backlog of 11,300 requests pending when Trump took office, there are 13,000 people waiting for an answer. Of those 13,000, Trump has made a decision on just 204 with 24 approvals and 180 denials. And of those 24 fortunate ones, all but five had celebrity endorsement or were affluent and well-connected with an inside track to the White House.

Larry Kupers, former head of the pardon office that reviews petitions filed by prisoners when standard processes are followed, said, “The joy you get finding meritorious people, working on those cases, making recommendations that go to the White House, seeing people receive the grants - you feel like you’ve done something. If that’s not happening, it feels like you are spinning your wheels.”

Kupers, who quit last year, was asked what prisoners seeking leniency should do. He replied, “Find a way to get to Kim Kardashian. I’m very serious about that.”

Trump first pardoned controversial Arizona Sheriff Joe Arpaio. The now-former sheriff had been an outspoken supporter of Trump in the 2016 election. And like Trump, Arpaio was also an outspoken bigot against people of color coming across the border.

Arpaio was convicted of violating a judge’s orders and illegally detaining suspected undocumented immigrants. Even though Justice Department regulations require prisoners to first wait five years after conviction or release (whichever is later) and then file a petition for a pardon, Arpaio did neither. Trump signaled he would pardon Arpaio even before Arpaio was convicted. And within one month of his conviction, Arpaio got his pardon.

Trump’s campaign aide, George Papadopoulos, served just 12 days in prison for lying to the FBI in the Russia investigation. Within months after his release, Papadopoulos requested a pardon. His lawyer, Caroline J. Polisi, said, “[I]t was very clear to me that a traditional submission to the DOJ Office of the Pardon Attorney would not be the most prudent strategy. Given what we knew about the unorthodox way the [P]resident has approached his granting of other pardons, we decided a less formal approach was appropriate.” Polisi refused to identify whom in the White House she approached.

By Douglas Ankney

On February 18, Trump used his pardon power to grant clemency to 11 people, almost all politically connected. Among them was Bernie Kerik, a close friend and one-time business partner of Rudy Giuliani, the president’s lawyer. Kerik, a former New York City police commissioner, had served three years in federal prison on charges that included tax fraud and lying to White House officials.

Sources: businessinsider.com, nymag.com, washingtonpost.com
$850,000 Settlement in Florida DOC Prisoner’s Gassing Murder

by David M. Reutter

The Florida Department of Corrections (FDOC) agreed to pay $850,000 to settle a lawsuit alleging guards murdered a prisoner at Franklin Correctional Institution (FCI).

The suit stemmed from the September 19, 2010, death of Randall Jordan-Aparo. His death was initially covered up by guards, but Aubrey Land, an Investigator with FDOC’s Inspector General’s Office, uncovered it while investigating another matter. [See PLN, February 2016, p. 1.]

Aparo was sentenced to serve 599 days for multiple counts of credit card fraud and was classified by FDOC as a minimum security prisoner. He was known to suffer Osler-Weber-Rendu disease, a hereditary congenital blood disorder.

After his arrival into FDOC, gang members at Jefferson Correctional Institution tried to recruit Aparo to help guards smuggle contraband, including cell phones, into the prison. Aparo and another prisoner provided information that resulted in the arrests of several guards, and FDOC created a report accessible to all its employees that detailed Aparo as an informant. That action resulted in a transfer to FCI.

On July 21, 2010, Aparo declared a medical emergency, stating blood was coming from his mouth and penis. A nurse “reviewed the entire medical record” and concluded he was faking and “manipulating.” Aparo was placed in confinement.

Aparo began exhibiting symptoms from his blood disorder on September 13. He had a 102.4° temperature on September 15 when he declared a medical emergency, stating blood was being administered on three occasions in his cell. Despite his continued bizarre behavior and being informed that he was injured and suicidal, jail personnel simply put Williams in a cell for belligerent prisoners and later transferred him to a general population cell without having provided any mental health or medical treatment.

A nurse employed by Correctional Healthcare, the jail’s contracted medical services provider, thought he was “faking injury.”

Three or four days after he was booked into the jail, a Correctional Healthcare psychiatrist saw Williams. Thereafter, he was placed in a video-monitored suicide cell. Williams spent days lying immobile on the floor of his cell in his own waste, paralyzed by a neck injury and begging for water while being ignored.

The neck injury finally paralyzed his chest muscles and he was found not breathing. A Correctional Healthcare nurse did not get on the floor to administer CPR, trying ineffectively to do so while standing. Williams died.

Aided by Tulsa attorney Daniel Smolen and others, the estate of Williams filed a federal civil rights lawsuit, pursuant to 42 U.S.C. § 1983, against Tulsa County Sheriff Stanley Glanz, police officers, jail personnel and Correctional Healthcare personnel. Correctional Healthcare settled before trial.

The other claims went to a trial in which the jury found in the estate’s favor, awarding it $10 million from Tulsa County and $250,000 in punitive damages against Glanz personally. Defendants appealed.

The Tenth Circuit discounted all of the

$10 Million Post-Appeal Settlement in Oklahoma Jail Prisoner Death Suit

by Matt Clarke

After having most of its defenses rebuked by the Tenth Circuit Court of Appeals, Tulsa County, Oklahoma, opted to settle for $10 million a lawsuit brought by the estate of a jail prisoner who died after police and jail personnel ignored obvious signs of suicidal intent and physical injury.

Elliott Earl Williams, 37, was arrested by Owasso Police Department officers in a local hotel lobby, where he had been creating a disturbance. According to the police report, it “was readily apparent” that he was “having a mental breakdown.” He was “rambling on about God, eating dirt.” He also threw himself on the ground, exposed his chest, told police he was going to kill himself that night and asked them to “shoot me twice.” He later asked, “What am I going to have to do to get you to shoot me?”

Police took Williams to their headquarters for “mandatory booking.” He continued to exhibit “strange and manic behavior consistent with acute and severe psychosis.” He responded “yes” when asked if he was suicidal and his Arrest and Booking Report was given a “warning indicator” that he was “suicidal.” He was placed in a holding cell but not on suicide watch.

Williams slammed his head into the cell walls, causing obvious injuries, screamed, danced aimlessly, crawled on all fours, and exhibited other strange behavior. Instead of providing him medical and mental health treatment, police officers took Williams to the Tulsa County jail.

Despite his continued bizarre behavior and being informed that he was injured and suicidal, jail personnel simply put Williams in a cell for belligerent prisoners and later transferred him to a general population cell without having provided any mental health or medical treatment.

A nurse employed by Correctional Healthcare, the jail’s contracted medical services provider, thought he was “faking injury.”

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The Tenth Circuit discounted all of the
The Habeas Citebook (2nd edition)
by Brandon Sample and Alissa Hull

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Public Relations Firm Terminates Contract With GEO Group

by Scott Grammer

GEO Group, a private prison company, had hired Edelman, the world’s largest public relations firm, to improve its public image. But Edelman found itself with a PR problem of its own because of its ties to GEO. The company has contracts from the Trump administration to run immigrant detention centers where children were being forcibly separated from their parents and where members of Congress were not being allowed to visit.

Just two months after landing the deal, Edelman decided to end the contract with GEO Group on July 12, 2019, mainly because its own employees objected to it. Edelman feared that news of the contract would be leaked. Fishbowl, an Internet-based networking application for professionals, was used by Edelman employees to discuss the contract with GEO Group. According to the New York Times, one employee using Fishbowl wrote, “I am beyond disturbed.” Another said, “This is an inherently political, moral and values-based issue.”

Edelman is not the first or only firm to drop ties with GEO Group and its main competitor, CoreCivic, for fear of soiling its own image. JPMorgan Chase, Bank of America, BMP Paribas and Wells Fargo have stepped back from private prison companies and the detention centers they operate. Edelman’s employees are not the first to complain about ties to Immigration and Customs Enforcement either. Microsoft and Amazon have had similar complaints from their employees.

According to the Chicago Tribune, Pablo Paez, a spokesman for the GEO Group, said, “We have sought out and will continue to seek out a number of strategic communications firms to help us tell our story, which we believe has been largely misrepresented in the media.”

Sources: adweek.com, nytimes.com, crow.house.gov, chicagotribune.com, fishbowlapp.com

News in Brief

Alaska: In March 2019, the Alaska Department of Corrections Commissioner Nancy Dahlstrom told legislators in October 2019 that Alaska would move forward with plans to ship prisoners to prisons in the Lower 48, after reinstating tougher criminal sentences caused a sharp spike in Alaska’s prison population. The Legislature had approved more than $16 million to re-open the Palmer Correctional Facility, which closed in 2016. Nancy Dahlstrom said the re-opening was not feasible and would take too long. Representative Tammie Wilson opposed sending Alaskans “outside,” saying many “came back as gang members.” The feds reported in 2019 that the 1488s, “a violent and ‘whites only’ prison-based gang” gained a foothold through Alaska’s out-of-state prisoner program. In a January 24, 2020 reversal, the DOC announced plans to reopen Palmer Correctional Center and Dahlstrom announced a pilot re-entry program to begin in 90 days, saying, “I can’t speak to the specifics right now, because some things are still getting worked out, but it will be a pilot that I believe will be successful.”

Arizona: Two jailers, Javier Chavez and Alfredo Reyes, at ASPC Tucson – Cimarron Unit were arrested on July 25, 2019 when they showed up to work, prompting their resignations. They were booked into the Pima County Jail, charged with conspiracy to commit dangerous deadly assault on a prisoner, conspiracy to commit kidnapping and conspiracy to commit tampering with physical evidence. They were then released; no bail information was available. “Video surveillance and other evidence collected by the investigators led to the swift arrest of Chavez and Reyes,” an ADOC spokesman said. On July 24, Reyes moved the victim from his pod to another cell, where he was assaulted by prisoners. A complaint alleges neither Reyes nor Chavez activated the incident alert system for more than one hour, despite both officers admitting to knowing that the victim had been assaulted and seeing him with injuries. Further, Reyes watched two prisoners carry the unresponsive victim back to his cell. The unnamed victim suffered a hematoma on the right side of his face, a hemorrhage, multiple facial fractures and contusions.

Arkansas: In March 2019, the Arkansas Department of Correction Agricultural Division held its Eighth Annual Horse Auction, Good Homes for Good Horses, at the Saline County Fairgrounds in Benton. The sale featured 33 horses bred and raised by the department for various jobs in corrections. The Shook family purchased three AR DOC horses at the 2019 auction: Buttons, Molly, and JJ. They are thriving in their new home. The AR DOC Agricultural Division breeds the horses, which begin training at 2 years-old and DOC work at 4 years-old. The horses are cared for by department staff and prisoner trainers. Staff members believe that working with the horses is therapeutic and helps prisoners learn responsibility and patience. Buttons worked security for outside work details at Cummins, Molly did the same at the Ouachita River, and JJ was used on regional maintenance at the North Central and as a chase horse for the East Arkansas Unit K-9 Division. He also carried the American Flag in many parades. The Ninth Annual Auction will be this month.

California: In preparation for watching the Super Bowl 20 on February 2, 2020, prisoners at the at the Santa Rita Jail in Dublin prepared “pruno,” a jailhouse wine made of fruit, juice, yeast and sugar. They fermented the concoction in plastic bags concealed throughout the facility in toilets and beneath the trash bags in bins. The Alameda County Sheriff’s department posted a photo of the haul on social media with the caption, “Illegally made jailhouse alcohol from fruit and juice. There will be no Super Bowl party at Santa Rita Jail tomorrow. Good work by our team on duty today.” Jailhouse wine can pose a health risk and sometimes death. Prisoners were still allowed to watch the game. Sergeant Ray Kelly said, “We’re not looking to get anyone in trouble. It’s a violation of the jail, but it’s not criminal.” Caches of jailhouse wine are discovered fairly frequently, since some minimum security prisoners work in the kitchen.

California: Jonathan Watson, 41, used a walking cane to repeatedly bludgeon convicted child molesters David Bobb, 48 and Graham De Luis-Conti, 62, causing multiple head wounds at the California

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Substance Abuse Treatment Facility, and State Prison, Corcoran (SATF) on January 16, 2020. Bobb died on the way to the hospital, despite continued life-saving measures by medical staff. De Luis-Conti died three days later at a local hospital. Watson transferred into CDCR from Humboldt County in September 2009. All three were serving sentences of life with the possibility of parole. Watson’s sentence was for first-degree murder and intentionally discharging a firearm causing great bodily injury or death. SATF’s Investigative Services Unit and the Kings County Coroner’s Office are investigating the killings. A 2015 Associated Press analysis found that male sex offenders made up about 15 percent of the prison population in California, but accounted for nearly 30 percent of murder victims. Sex offender Noah Rutherford died from his injuries on February 2, 2020, two months after his cellmate attacked him at Kern Valley State.

Colorado: On June 16, three ICE prisoners escaped from the Aurora Contract Detention Facility run by GEO Group. Around noon, Amilcar Aguilar-Hernandez, 23, Douglas Amaya-Arriaga, 18, and Carlos Perez-Rodriguez, 18, scaled the fifteen-foot fence and climbed a wall, as the prisoners were coming in from yard time and the duty guard was distracted by logging them back in on her sheet. After three nights together in Colorado Springs, they separated and all were recaptured on June 20. Aguilar-Hernandez, from El Salvador, had a felony trespassing conviction and is a suspect in a Colorado Springs, rape case. The other two are from Honduras, with no criminal history. Amaya-Arriaga was found in Denver with another migrant that ICE also arrested. The three were sent to federal court in Denver to face prosecution. U.S. Representative Diana DeGette had recently criticized the facility after an inspection revealed unlabeled food and a lack of outdoor activity for the prisoners. In a press release, an ICE spokesman praised the “sheer determination of our team.”

Delaware: Roman Shankaras was acquitted by a jury in May 2019 of all charges associated with a deadly prison riot that happened at James T. Vaughn Correctional in 2017, despite being characterized as a “mastermind” by the prosecution. However, on February 1, 2020, Wilmington police got calls about “a suspicious vehicle at 5th and Shipley streets.” Police found the car, Shankaras, and a loaded 9mm. Shankaras was slapped with several charges: possession of a deadly weapon by a person prohibited, possession of a firearm or ammunition by a person prohibited, violating an ordinance regarding stopping, standing or parking near a fire hydrant, and violating probation. Shankaras is being held at Howard R. Young Correctional. Cash bail is set at $10,001. The 2017 riot prompted the Delaware DOC to sign a $30 million contract in October 2018 with the Pennsylvania DOC to house at least 330 prisoners in Pennsylvania to relieve overcrowding and overtime. Vermont had a similar agreement in 2017. After three Vermont prisoners died, Vermont transferred its prisoners to CoreCivic’s Tallahatchie County Correctional in Mississippi.

Florida: Candie Lynn Walker, 35, was convicted in December 2019 of attempted first-degree premeditated murder with a weapon and sentenced on January 21, 2020 to 55 years in state prison, in connection with an October 2018 machete attack by her daughter, Hannah Fine, 16, in Escambia County. The machete victims, a woman and her daughter, survived the blows and named Fine as their attacker. Fine told investigators that her mother had said she would “ground” Fine if she did not kill the woman. Fine was sentenced to 16 years and seven months in state prison on January 17, 2020. Fine had pleaded guilty to attempted first-degree premeditated felony murder, aggravated battery and burglary of a dwelling with assault and battery in April 2019. Walker’s motive for wanting the woman dead was not revealed. At Walker’s sentencing, Assistant State Attorney Amy Shea said, “Candie is like the rock that is thrown in the bottom of a still lake.”

Florida: Despite throwing his feces at Miami-Dade Circuit Judge Lisa Walsh, Dorleans Philidor, 33, was acquitted of burglary by a jury. The incident happened on June 21, 2019. Philidor defecated in his wheelchair and hurled the pile at the judge, yelling, “It’s protein! It’s good for you!” Witnesses said he ate some of the excrement himself. The judge was not hit, but the courtroom was closed for cleaning and closing arguments were moved to another courtroom. The day before, Philidor had pooped and spread it on himself and on the walls of his courthouse holding cell. A doctor’s evaluation found him well enough to attend the next day’s trial. Philidor remained in custody because of a separate grand theft auto case. There are no updates to that case and no apparent new charges related to his cruddy behavior.

Georgia: On January 16, 2020, former Gwinnett County jail guard Aaron S. Masters, 27, was indicted for violating a prisoner’s civil rights and writing a false report. Shelby Clark was in jail on a simple battery charge in August 2018, when she attacked several guards. Once back in her cell, she began to harm herself. The Rapid Response Team (RRT) was called to prevent the self-harm. At that time, Masters punched Clark in...
the face with a closed fist. According to U.S. Attorney Byung Pak, “Following the assault, Masters wrote a report about the encounter in which he falsely claimed that the physical force was necessary to gain the inmate’s compliance.” Masters was initially arrested in August 2018, which prompted his resignation. The RRT in the Gwinnett jail has been under scrutiny since 2013 with an ongoing civil suit in the U.S. District Court in Atlanta for the use of “restraint chairs,” designed to hold prisoners’ extremities, chest and head in place. That lawsuit contends that the chairs were used as punishment, which constitutes excessive force.

Georgia: No one is explaining how Tony Maycon Munoz-Mendez, 31, who was serving a life sentence in Rogers State Prison in Tatnall County for rape and child molestation in Gwinnett County, was “released in error” on October 25, 2019. Five days later, at 10:30 p.m., Munoz-Mendez was recaptured in Fort Thomas, Kentucky, near the border with Ohio, by the Georgia DOC Fugitive Unit, US Marshals Fugitive Task Force, and ICE. The Georgia DOC failed to alert the public until three days after his release. They also did not notify his victim or her foster mother. The Georgia Crime Victims Bill of Rights (aka Marsy’s Law) was passed in January 2019. It specifies, “The right to reasonable, accurate, and timely notice of the arrest, release, or escape of the accused.”

John Warr, the Gwinnett County prosecutor who handled the Munoz-Mendez case complained, “Something needs to be done about the protocols, the procedures, about verifying who they’re releasing.”

Idaho: “Appropriate administrative action” was undertaken by the Power County prosecutor and sheriff after an internal investigation into former sheriff’s captain David Preston. Court records show that Preston was charged with misdemeanor battery in August 2019 for touching a Power County Jail prisoner on the buttocks on May 24, 2019. Power County Sheriff Jim Jeffries found out about the incident at the end of June. It is unclear whether Preston resigned or was fired. In a plea agreement, Preston pleaded guilty and was sentenced by Judge R. Todd Garbett to 30 days suspended jail time, and he was placed on probation for up to 12 months. Preston will also have to pay court costs and a $1,000 fine. Ryan Jolley, the Bonneville County deputy prosecuting attorney, handled the case and said the sentence was “standard for this type of crime.”

Indiana: Lawrence Onyesonwu, 33, and Martins Tochukwu Chidiobi, 29, were fired on February 21, 2019 by GEO Group of Boca Raton, Florida, operator of the New Castle Correctional Facility in Indiana, where the two men worked and were operating an identity theft scam. They were first arrested in Hendry County in February 2019, charged with fraud on a financial institution, counterfeiting and identity deception. They would allegedly steal prisoner identities to open bank accounts and to create false documents. The accounts were used to shift money to overseas accounts. In 2018, $70,000 went to seven people in Nigeria. A Citizens State Bank representative first alerted police in January 2019 that an account had been opened in a prisoner’s name. Onyesonwu went to the bank and showed a Republic of Liberia passport and a driver’s license with a prisoner’s name and his own picture. Passports from Ghana and China were also created. When confronted, Chidiobi pointed to Onyesonwu, saying Onyesonwu had someone in Nigeria make fake documents and send them back. In June 2019, the two men were indicted.

Indiana: Dorrian Jefferson filed a class action complaint against Allen County Sheriff David Gladieux in the Allen Superior Court, alleging that prisoners “were subjected to denial of minimally adequate medical treatment” after a fire broke out on November 20, 2017, in the Allen County Jail. Gladieux evacuated dozens of jail guards and their dogs, and provided them with emergency medical care. The prisoners were locked in their cells for the duration of the crisis and no medical care was provided after smoke abated. Allen County Commissioners settled the case on October 25, 2019 for $2,500. A separate inadequate medical care claim was settled for $2,500 at the same commission meeting. In that complaint, against jail commander Alan Cook and Gladieux, and Quality Correctional Care, prisoner Terry Ray Dowell asserted that medical treatment was delayed for his infected catheter in October 2016 and he was forced to sleep on the floor. Allen County “vehemently” denied the allegations, but assistant county attorney Spencer Feighner said “the settlement was better than fighting it.”

Louisiana: The last of four former Richwood Correctional Center guards involved in a conspiracy to falsify documents related to the October 2016 pepper spraying of five shackled prisoners has been sentenced. Former lieutenant Christopher Loring was sentenced to 46 months in prison on September 4, 2019. He pleaded guilty in March 2019 “to conspiring with other officers to falsify documents with intent to obstruct and influence the investigation of a matter within federal jurisdiction.” Loring admitted to not intervening, while five handcuffed, compliant, and kneeling prisoners that the guards suspected of gang activity were pepper sprayed in the face and eyes, out of range of security cameras. Loring then submitted false reports to cover-up the incident. Quintail Credit, a fifth guard, died before sentencing and his charges were dropped. A civil suit against the guards by the victims’ families is still pending. U.S. Attorney David C. Joseph stated, “I hope that the conclusion of this case demonstrates our commitment to ensure that Louisiana’s correctional officers follow the law and do not abuse the inmates under their supervision.”

Maryland: Ronnie Harris, 56, was eight years into an 80-year sentence for armed robbery and deadly weapon charges at the Maryland Correctional Training Center, in Hagerstown, when he was found unresponsive on a housing tier on May 29, 2019. He died the next day at Georgetown University Hospital in Washington, D.C. The D.C. medical examiner’s office ruled Harris’ death as homicide by blunt force trauma. Thomas Cole, 39, was indicted on second-degree murder and assault charges for the death of fellow prisoner on August 20, 2019, after a Maryland State Police Homicide Unit and Department of Public Safety and Correctional Services Internal Investigations Unit investigation. The circumstances leading up to Harris’s murder were not released. Cole was moved to Western Correctional in Cumberland to await trial.

Maryland: The July 27, 2019 guilty plea by former Eastern Correctional Institution prison guard Hope Gladden, 35, to federal racketeering charges to distribute synthetic cannabinoids and opioid addiction treatment drugs highlights the need for opioid addiction treatment at state prisons. With the help of prisoners Ishmael Valdez and Charles Owens from 2016 through November 2018, Gladden “solicited and received bribes in exchanges for bringing contraband into ECI including, specifically Suboxone and synthetic cannabinoids, also known as K2,” according to her
plea agreement. Drugs and contraband were sent to a P.O. Box in Fruitland. In exchange for cash and other favors, some sexual, she brought them into Eastern Correctional. When “snitching” occurred, Gladden encouraged retaliation by cooperating prisoners. Gladden’s case is part of an ongoing federal investigation at Eastern. The Maryland DOC estimates that 70% of jail and prison residents suffer from substance abuse or dependence. Maryland officials say they will consider expanding programs for addiction screening, counseling and treatment at state prisons with three federally approved medications.

Mississippi: Former Adams County Correctional Center prison worker Kellie Fuqua, 57, pleaded guilty on June 19, 2019 to taking bribes from prisoners in exchange for contraband. In October 2019, Fuqua was sentenced to one year in federal prison. She is currently at FCI Tallahassee. Adams County Correctional is now an ICE facility, owned and operated by CoreCivic under contract with U.S. Immigration, Customs and Enforcement. The CoreCivic contract with U.S. Immigration, Customs and Enforcement expired in 2009, repurpose the facility to keep jobs to help CoreCivic, which opened the prison with the Federal Bureau of Prisons.

Nebraska: Jami Cutshall, 34, the Nebraska State Penitentiary unit caseworker who was arrested at work in October 2017 for suspicion of selling synthetic marijuana (K2) to prisoners [see: PLN, May 2018, p.63], was sentenced by Judge Lori Maret on June 11, 2019. She was sentenced to 60 days in jail and will be on probation for two years. Cutshall got 18 days credit for time served. In a plea agreement, Cutshall pleaded no contest to conspiracy to commit a felony and prosecutors dropped the charge. They also dropped a charge for sex abuse of an inmate on parole, even though Cutshall had admitted to having sex with a paroled prisoner. DOC Director Scott R. Frakes stated, “The investigation began following several incidents of suspected K2 use. I am proud of the investigative work completed by our intelligence team, criminal investigators and facility staff. I appreciate the assistance of the Nebraska State Patrol in the arrest.”

New Jersey: The Gateway Foundation provides drug abuse services for New Jersey prisons and five other states. In June 2019, Carney Springer, 50, of Bucks County, Pennsylvania, an assistant director at the foundation was arrested on suspicion of bringing synthetic marijuana and illicit prescription pills into Mid-State Correctional Facility several times over two years. Mid-State is on the grounds of Fort Dix in Wrightstown. An investigation was initiated after a prisoner was found with crushed pills and K2. Springer allegedly supplied Subutex and Suboxone, drugs used to treat opiate addiction, as well as K2 to the same prisoner, while he was at Southern State Correctional, in Delmont. The drugs were delivered in person and through the mail. Springer was charged with Possession of a Controlled Dangerous Substance, Possession of a Controlled Dangerous Substance with Intent to Distribute, Distribution of a Controlled Dangerous Substance, and Providing an Inmate with Contraband. Assistant Prosecutor Brian Faulk, supervisor of the BCPO Special Investigations Unit will prosecute the case. Bond information and scheduled court dates were not available.

New Jersey: “I was scared out of my mind. I’d never been detained. I’ve never been arrested,” Yarelis Rivera recalled. She had never dreamed that the wallet she lost on a New Jersey amusement park visit in 2012 would lead to her arrest seven years later by ICE agents as she disembarked from her twelve day Royal Caribbean cruise at the Cape Liberty Cruise Port in Bayonne. Customs and Border Patrol agents took her into custody on December 20, 2019, acting on a December 2013 Cumberland County Sheriff’s warrant for making false reports to
law enforcement. A Customs and Border Patrol spokesperson said all Rivera’s particulars matched the warrant: name, weight, birth date, hair and eye color. A friend had to pick up Rivera’s kids and luggage. A Cumberland County van picked her up at the Hudson County jail on Christmas Eve. After a four hour van ride, in shackles, Cumberland County finally ran her fingerprints – no match. She was released on December 26. ACLU attorney Alexander Shalom said the jails violated Rivera’s constitutional rights by not running her fingerprints upon arrest.

Ohio: Christopher Perdue, a Cuyahoga County Jail guard was suspended for five days in May 2019 for “unnecessary contact” with an inmate that occurred six months earlier. Perdue placed Tyrone Hipps, a Muslim, in a choke hold and dragged him from a cell. Purdue said it was not Hipps’s cell. Ohio Patrolmen’s Benevolent Association attorney Adam Chaloupka says Hipps’s continued confinement in the dry cell was in retaliation for his speaking out to the US Marshal’s personnel regarding conditions in the facility. “The US Marshal’s report found conditions inside the jail “inhumane.” Cuyahoga County Executive Armond Budish, asked marshals to investigate in 2018 after several deaths at the jail. Hipps, who is on community supervision, filed a lawsuit against Perdue and Cuyahoga County on November 4, 2019.

Pennsylvania: The U.S. Court of Appeals for the Third Circuit revived Briaheen Thomas’s civil rights lawsuit on January 15, 2020, vacating a November 2019 judgment. In 2015 a guard witnessed Thomas ingest something in the visiting room at SCI Rockview. Thomas said it was a peanut M&M. The guard believed it was drugs in a colored balloon and placed Thomas in a “dry cell” (no water, no linens), which Thomas contends was unsanitary, to analyze his feces. Thomas had 12 bowel movements in four days. No drugs were found and an X-ray revealed no obstructions. Nevertheless the Program Review Committee kept Thomas in the cell five more days. The new ruling states, “The PRC has not presented evidence of any penological justification for Thomas’s continued confinement in the dry cell. So we will affirm in part and reverse in part the District Court’s order granting summary judgment to the members of the PRC and remand for further proceedings on Thomas’ claim that his continued confinement in the dry cell without penological justification violated his constitutional rights.”

Puerto Rico: Former BOP guard Carlos Ochoa, 33, was sentenced to 120 months in federal prison on August 28, 2019 in the Northern District of New York. The judge also imposed four years of supervised release, beginning when Ochoa is released from prison, and ordered Ochoa to forfeit $17,840 and a black 2015 Cadillac Escalade. Ochoa had two cases pending against him. One originated in the District of Puerto Rico. Ochoa admitted to providing an armed escort in 2017 while he was still a BOP officer, working at the Metropolitan Detention Center (MDC) in Guaynabo, PR, to facilitate a shipment of several kilos of cocaine. He was paid $5,000. Ochoa pleaded guilty to attempting to aid and abet possession with intent to distribute controlled substances, and possession of a firearm in furtherance of a drug trafficking crime. In an October 2012 case, Ochoa pleaded guilty to bribery by a public official, for smuggling an iPhone in exchange for $600 to a prisoner while he was working at FCI Ray Brook in New York state.

Rhode Island: Activists of Never Again Action Rhode Island staged a protest in the rotunda of the State House to shut down Executive Armond Budish, asked marshals to investigate in 2018 after several deaths at the jail. Hipps, who is on community supervision, filed a lawsuit against Perdue and Cuyahoga County on November 4, 2019.

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Prison Legal News
Thomas Woodworth swerved his Chevy Silverado into Never Again Action protesters on August 11, 2019, then “strolled” into work. Some protesters had to be treated at the hospital. Other guards pepper sprayed protesters. Caught on video, Woodworth was placed on administrative leave and then resigned on August 16. Amy Anthony, the protest group’s spokesperson said, “If these officers felt empowered to attack a group of protesters in front of the public and the media, imagine what kind of violence must be taking place inside the prison, out of [sight], against vulnerable immigrants and people of color.” Wyatt Detention Facility is operated by the Central Falls Detention Facility Corporation, a quasi-public entity overseen by a board that is appointed by the Central Falls mayor. On October 24, 2019 a grand jury declined to indict Woodworth over the incident.

**Tennessee:** “I’ll show you where I saw my first stabbing,” says George Wyatt Jr. as he guided tourists through the empty cellblocks of Brushy Mountain State Penitentiary, in Morgan County. Wyatt and the Brushy Mountain State Pen shut down in 2009, Wyatt has been a guide there since 2018.

Tennessee: “I’ll show you where I saw my first stabbing,” says George Wyatt Jr. as he guided tourists through the empty cellblocks of Brushy Mountain State Penitentiary, in Morgan County. Wyatt and the Brushy Mountain State Pen shut down in 2009, Wyatt has been a guide there since 2018.

Texas: Travis County Correctional Complex guard Carlos Luna, 21, was arrested on July 13, 2019 and charged with tampering with a government record. A supervisor at Travis reviewed surveillance footage in the jail’s Building 12 and noticed that Luna didn’t seem to be doing the prisoner checks, required by state law, at the times he had noted in a logbook. In June 2019, he logged 49 visual checks in six days, but the video footage revealed he had skipped 34 of them. On July 10, a detective asked Luna why he didn’t complete his checks. He stated that he just “didn’t care.” Luna was hired in July 2017. Tampering with a government record is a Class A misdemeanor and punishable by up to a year in the county jail and a possible $4,000 fine.

**Virginia:** Jermaine Gaye, 34 is facing 34 charges, including several counts of cruelty to animals and is being held without bond in a bizarre case that began after he crashed into a police cruiser, leading to a high speed chase that injured two people on January 31, 2019. While in the Norfolk Jail, Gaye allegedly told three women over...
Criminal Justice Resources

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Campaigns for the worldwide abolition of the death penalty. Publishes information on torture, gun violence, counter-terrorism, refugees’ rights and other human rights issues. No legal services are provided. Reports on the U.S. and other countries are available online at: www.amnesty.org.

Black and Pink
Black and Pink is an open family of lesbian, gay, bisexual, transgender and queer prisoners and “free world” allies who support each other. A national organization, Black and Pink reaches thousands of prisoners across the country and provides a free monthly newspaper of prisoner-generated content, a free (non-sexual) pen-pal program and connections with anti-prison movement organizing. Contact: Black and Pink, 6223 Maple St. #4600, Omaha, NE 68104 (531) 600-9089. www.blackandpink.org

Center for Health Justice
Formerly CorrectHELP. Provides information related to HIV in prison – contact them if you are not receiving proper HIV medication or are denied access to programs due to your HIV status. Contact: CHJ, 900 Avila Street, Suite 301, Los Angeles, CA 90012 (213) 229-0985; HIV Hotline: (213) 229-0985 (collect calls from prisoners OK). www.centerforhealthjustice.org

Centurion Ministries
Centurion is an investigative and advocacy organization that considers cases of factual innocence. Centurion does not take on accidental death or self-defense cases or cases where the defendant had any involvement whatsoever in the crime. In cases involving sexual assault, a forensic component is required. Cases that meet this criteria may send a 2-4 page letter outlining the facts of the case, including the crime you were convicted of, the evidence against you and why you were arrested. You will receive a return letter of acknowledgement. Contact: Centurion, 1000 Herrontown Rd., Clock Bldg. 2nd Fl., Princeton, NJ 08540. www.centurion.org

Critical Resistance
Seeks to build an international movement to abolish the Prison Industrial Complex, with offices in California, New York, and Portland, Oregon. Publishes The Abolitionist newsletter. Contact: Critical Resistance, 1904 Franklin Street #504, Oakland, CA 94612 (510) 444-0484. www.criticalresistance.org

FAMM
FAMM (Families Against Mandatory Minimums) advocates against mandatory minimum sentencing laws with an emphasis on federal laws, and works to “shift resources from excessive incarceration to law enforcement and other programs proven to reduce crime and recidivism.” Contact: FAMM, 1100 H Street, NW #1000, Washington, DC 20005 (202) 822-6700. www.famm.org

The Fortune Society
Provides post-release services and programs for prisoners in the New York City area and occasionally publishes Fortune News, a free publication for prisoners. Contact: The Fortune Society, 29-76 Northern Blvd., Long Island City, NY 11101 (212) 691-7554. www.fortunesociety.org

Innocence Project
Provides advocacy for wrongfully convicted prisoners whose cases involve DNA evidence and are at the post-conviction appeals stage. Maintains an online list of state-by-state innocence projects. Contact: Innocence Project, 40 Worth St., Suite 701, New York, NY 10013 (212) 364-5340. www.innocenceproject.org

Just Detention International
Formerly PARC, P .O. Box 70447, Oakland, CA 94612 (510) 893-4648. www.justicedenied.org

Justice Denied
Although no longer publishing a print magazine, Justice Denied continues to provide the most comprehensive coverage of wrongful convictions and how and why they occur. Their content is available online, which includes all back issues of the Justice Denied magazine and a database of more than 4,500 wrongfully convicted people. Contact: Justice Denied, P. O. Box 66291, Seattle, WA 98166. www.justicedenied.org

National Cure
Citizens United for Rehabilitation of Errants (CURE) is a national organization with state and special interest chapters (such as federal prisoners and sex offenders) that advocates for rehabilitative opportunities for prisoners and less reliance on incarceration. Publishes the CURE Newsletter, $2 annual membership for prisoners. Contact: CURE, P. O. Box 2310, Washington, DC 20013-2310 (202) 789-2126. www.curenational.org

National Resource Center on Children and Families of the Incarcerated
Primarily provides research, fact sheets and a program directory related to families of prisoners, parenting, children of prisoners, prison visitation, program directory related to families of prisoners, primarily in New York. Contact: The Fortune Society, 29-76 Northern Blvd., Long Island City, NY 11101 (212) 229-0985; www.nationalcure.org

November Coalition
Advocates against the war on drugs and previously published the Razor Wire, a bi-annual newsletter on drug war-related issues, releasing drug war prisoners and restoring civil rights. No longer published, back issues are available online. Contact: November Coalition, 282 West Astor, Colville, WA 99114 (509) 680-4679. www.november.org

Prison Activist Resource Center
PARC is a prison abolitionist group committed to exposing and challenging all forms of institutionalized racism, sexism, able-ism, heterosexism and classism, specifically within the Prison Industrial Complex. PARC produces a free resource directory for prisoners and supports activists working to expose and end the abuses of the Prison Industrial Complex and mass incarceration. Contact: PARC, P. O. Box 70447, Oakland, CA 94612 (510) 893-4648. www.prisonactivist.org

the phone to threaten the witness in his case. Denise Kearney, 35, and Ashley Pinkett, 20, attempted to do this. In March and April, according to court records, the two women allegedly had sex with Gaye’s dog while “he encouraged them over the phone from the Norfolk City Jail.” Pinkett said she took pictures. Gaye was moved to the Virginia Beach Jail, after trying to have an inappropriate relationship with a Norfolk City Jail employee. In two April video chats from the Virginia Beach Jail, Pinkett allegedly had sex with Gaye’s dog again with his encouragement. Pinkett faces charges, including bestiality, animal cruelty, and tampering with a witness. Kearney faced charges as well.

Washington: GEO Group released July 13, 2019 video footage of Willem Van Spronsen’s vehicle exploding as gunfire is heard at the Tacoma Northwest Detention Center. Tacoma Northwest is an ICE facility, run by GEO, which holds migrants pending deportation proceedings. Van Spronsen, 69, planned his actions to coincide with the anniversary of a hunger strike detainees began on July 14, 2018. He left a manifesto, including the words, “When I was a boy, in post-war Holland, later France, my head was filled with stories of the rise of fascism in the ’30s. I promised myself that I would not be one of those who stands by as neighbors are torn from their homes and imprisoned for somehow being perceived as lesser.” There had been a peaceful rally hours before Van Spronsen set fire to his car to disable the fleet of Tacoma Northwest buses. He carried a home-built, unregistered, “ghost” AR-15. His friend, Deb Bartley said he intended to provoke a fatal conflict, as friends had received “just saying goodbye” letters. He died of multiple gunshot wounds. □
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Prison Education Guide, by Christopher Zoukis, PLN Publishing (2016), 269 pages. $49.95. This book includes up-to-date information on pursuing educational coursework by correspondence, including high school, college, paralegal and religious studies.

The Habeas Citebook: Ineffective Assistance of Counsel, 2nd Ed. (2016) by Brandon Sample, PLN Publishing, 275 pages. $49.95. This is an updated version of PLN’s second book, by former federal prisoner Brandon Sample, which extensively covers ineffective assistance of counsel issues in federal habeas petitions.

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