Introduction

The novel coronavirus is now a global pandemic and is widespread in the United States, causing a disease called COVID-19. It is likely that a majority of the population will eventually become infected with this virus. Here is some information about the coronavirus and some thoughts about taking care of yourself and your facility during this pandemic. Recommendations are changing daily as the virus spreads more widely. Try to get newer information from trusted sources such as the Centers for Disease Control (CDC), the World Health Organization (WHO) or your state Department of Health. Don’t trust rumors. False information is widely circulating already.

Residential institutions with congregate living like boarding schools, mental hospitals, homeless shelters and prisons or jails bring together a large number of people into a very small space for prolonged periods of time. Communicable diseases are readily introduced from outside and spread more easily where people live in close quarters. Coronavirus is coming to all of us in the free world. Prisons and jails will likely be hard hit, with rapid spread inside when the disease becomes widespread in the local community or home communities. Prisoner representative councils should try to work with facility administration to develop the institutional response to COVID-19. Some jurisdictions are trying to release prisoners to reduce populations and allow people to survive the epidemic with family in the free world.

COVID-19 illness takes different forms

The majority of people who become infected may have no symptoms, may be unaware that they are infected, and recover fully. Nevertheless, they are infectious to others.

Some people develop symptoms. The disease caused by the novel coronavirus is called “COVID-19” which stands for Corona Virus Infectious Disease-19. Of those who develop symptoms, the majority have mild symptoms like a common cold, including runny nose, sneezing, mild cough and possibly some nausea, vomiting or diarrhea. On average, symptoms develop about 5 days after infection, but patients are infectious to others starting 2 or 3 days before symptoms start.

Therefore, people who are feeling well can still be infectious and spread the virus to others.

Some patients develop more severe disease with symptoms such as fever, cough, shortness of breath, and pneumonia. People with more severe disease may need hospitalization for supportive medical and nursing care. In some cases, the lungs are unable to move oxygen into the blood and carbon dioxide waste out of the blood. Those people need mechanical breathing with a respirator in intensive care.

Anyone at any age may develop more severe disease. However, some people are more likely to have severe disease because their bodies are weaker due to age or chronic illness. People over 60 in the general population are at higher risk. I have observed that people who have lived hard lives age faster and show the effects at a younger age. So prisoners may be at higher risk starting at age 50. People at higher risk for more severe disease due to chronic illness include those with lung disease (such as COPD, chronic bronchitis, emphysema, or asthma), heart disease (such as congestive heart failure or poorly controlled hypertension), weak immune system (such as untreated HIV infection, chemotherapy, prolonged corticosteroid treatment), diabetes, cancer, or any other chronic disease with organ damage such as kidney, liver or intestinal diseases. Everyone needs to be careful not to spread...
Prison Education Guide
Christopher Zoukis
ISBN: 978-0-9819385-3-0 • Paperback, 269 pages

Prison Education Guide is the most comprehensive guide to correspondence programs for prisoners available today. This exceptional book provides the reader with step by step instructions to find the right educational program, enroll in courses, and complete classes to meet their academic goals. This book is an invaluable reentry tool for prisoners who seek to further their education while incarcerated and to help them prepare for life and work following their release.

The Habeas Citebook: Ineffective Assistance of Counsel, Second Edition
Brandon Sample & Alissa Hull
ISBN: 978-0-9819385-4-7 • Paperback, 275 pages

The Habeas Citebook: Ineffective Assistance of Counsel is the first in a series of books by Prison Legal News Publishing designed to help pro se prisoner litigants identify and raise viable claims for potential habeas corpus relief. This book is an invaluable resource that identifies hundreds of cases where the federal courts have granted habeas relief to prisoners whose attorneys provided ineffective assistance of counsel.

Dan Manville

The Disciplinary Self-Help Litigation Manual, Second Edition, by Dan Manville, is the third in a series of books by Prison Legal News Publishing. It is designed to inform prisoners of their rights when faced with the consequences of a disciplinary hearing. This authoritative and comprehensive work educates prisoners about their rights throughout this process and helps guide them at all stages, from administrative hearing through litigation. The Manual is an invaluable how-to guide that offers step-by-step information for both state and federal prisoners, and includes a 50-state analysis of relevant case law and an extensive case law citation index.

The Habeas Citebook: Prosecutorial Misconduct
Alissa Hull

The Habeas Citebook: Prosecutorial Misconduct is the second in PLN Publishing’s citebook series. It’s designed to help pro se prisoner litigants identify and raise viable claims for potential habeas corpus relief based on prosecutorial misconduct in their cases. This invaluable title contains several hundred case citations from all 50 states and on the federal level, saving readers many hours of research in identifying winning arguments to successfully challenge their convictions.

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Protect from COVID-19 (cont.)

infection to these people. People at higher risk of severe disease should be released if at all possible.

Only a small fraction of those who are infected will develop severe disease. However, when a lot of people are infected, even a small percentage of them is a very large number. In February in northern Italy so many people became infected quickly that the hospitals were overwhelmed with severely ill patients. There is concern that the same thing is occurring in the U.S. as the virus spreads rapidly. Some estimates are that we are only two or three weeks behind Italy. If that is correct, if nothing is done, by mid-April the health care system will be overwhelmed in some regions.

**Slow down the spread of infection**

There is currently no vaccine to help prevent infection with the novel coronavirus. The first vaccine trial has started, but there is no evidence yet that it is safe or effective. There is currently no treatment for COVID-19. Several drug trials have started around the world to see if existing medicines may be helpful to cure the virus or reduce the severity of the lung disease.

Those trials have just started. We don’t know yet if any of these drugs will be effective. Treatment at present is simply care needed to support the patient while their body’s immune system responds to cure the virus.

The WHO and the CDC have issued guidelines for prevention and management of COVID-19 disease. The basic idea behind these guidelines is to slow down the spread of the disease so the health care system is not overwhelmed and necessary services can be maintained even though many people are sick.

If everyone gets sick at once, there will not be enough hospital beds and breathing machines to support all the sick people. There will not be enough healthy people to maintain critical services like fire, police, nursing home care, food transport and yes, even correctional facility staffing.

On the other hand, if the disease spreads slowly over a period of months instead of days or weeks, fewer people will be severely ill at one time and there could be enough hospital beds and respirators to handle the case load. That is the goal of the public health interventions that are being recommended now for all Americans.

The recommended behaviors for all Americans to slow the spread of coronavirus infection include protecting yourself (personal cleanliness), keeping away from other people (social distancing), and disinfecting environmental surfaces (environmental cleanliness). The same approach applies to people in prisons and jails, adapted to the high-risk environment of a residential institution.

**How does it spread?**

Pandemic coronavirus spreads from person to person. When an infected person coughs, sneezes, yells or even sings loudly small droplets of saliva or mucus teaming with viruses are ejected from the mouth into the air. Someone else inhales those droplets and gets infected. Or possibly a droplet lands on a hard surface, sits there for a while and then someone else touches that surface, picks up the virus and transfers that virus to his eye, nose or mouth and gets infected. Or an infected person may have virus on his hands and touches a hard surface, which deposits virus there. Later another person touches that hard surface and then his own eye, nose or mouth and gets infected. In general, close contact with an infected person will result in infection unless very careful precautions are taken.

Efforts to prevent spread focus on personal cleanliness, especially careful and frequent handwashing to keep the hands from getting contaminated. Prevention also requires efforts to keep the hands away from the face and to suppress infectious droplets by covering coughs and sneezes. Social distancing keeps people separate to avoid close contact, and environmental cleanliness disinfects hard surfaces that may harbor virus.

**Personal Cleanliness**

1. **Keep a clean cell:** The virus can survive on hard surfaces for days. A droplet with virus in it can float around for hours and finally land somewhere in your cell. Disinfecting surfaces regularly helps prevent the spread of disease from contaminated hard surfaces to hand to face. Disinfectants can be hard to get in prison. Maybe some commissaries carry disinfectant wipes. Soap and warm water is better than nothing. Household bleach diluted 1/3 cup to a gallon of water is a pretty good disinfectant. Household hydrogen peroxide...
is somewhat effective as a disinfectant but may not kill coronavirus. Some facilities use a disinfectant soap for mopping floors and cleaning toilets and showers, but it is usually not available for use in the cell. Maybe the facility administration could mandate that officers send around a bucket of sanitizer solution twice a day for cell disinfection. Or maybe pass around a disinfectant spray bottle twice a day.

2. Hand washing: You may become infected by germs that get onto your hands. You may spread infection to others on your hands. Wash your hands often. Hand washing with soap and warm water for 20 seconds actually kills the virus. Hand washing done well is as effective as hand sanitizer. Hand sanitizer is more convenient than washing, but not better.

Of course, always wash your hands after using the toilet. Wash your hands when you get up in the morning. Wash your hands after you cough or sneeze anywhere near them. Wash your hands before you leave your cell. Wash your hands when you return to your cell.

Soap must be available for effective hand washing in your cell and in public bathrooms. Stock up at commissary for yourself. If you don’t already do so, try to keep a 3-month supply of hand soap. Facilities must make soap available at public bathrooms, distributing daily if necessary. Don’t take and hoard soap from public bathrooms. Everyone needs soap to be there.

3. Hand sanitizer: You need hand sanitizer when you are out of your cell moving around the facility in contact with people and hard surfaces that may harbor the virus. The common hand sanitizers with alcohol are generally banned in correctional facilities due to fire prevention standards and risk of using it as a weapon. Nevertheless, the practical solution to the immediate problem is to put hand sanitizer wall dispensers in positions where they can be closely observed and thereby make sanitizer available to all people moving about the facility. If it becomes available, use it when you enter an area; use it again when you exit. Disinfectant wipes work and cannot be easily weaponized but are expensive compared to sanitizer gel.

4. Hand protection: Try to avoid contaminating your hands on public hard surfaces. If you can, avoid touching hand rails. Try not to touch doorknobs. Maybe most doors could be propped open so there is no need to touch them? Use hand sanitizer if it is available after touching public hard surfaces like hand rails and doorknobs.

5. Don’t touch your face: By touching the eyes, nose or mouth with contaminated fingers the virus can enter the body and spread. Avoid touching your eyes, nose and mouth at all times. Face masks are uncomfortable to wear, but sometimes a face mask can help you avoid touching your mouth and nose.

6. Cover coughs and sneezes: Cover coughs and sneezes to prevent droplets from being expelled into the air. Even if you think you are not sick you should cover. You may be infectious already but not showing symptoms. Model the best behavior for others to learn and follow. You are protecting each other. Use tissue to cover the nose and mouth if you can, throw it away and wash or sanitize your hands. Cough or sneeze into the crook of your elbow or upper arm if no tissue is available.

7. Face masks: You see a lot of pictures of people wearing face masks. Public health is currently recommending face masks only for people who are sick. This helps prevent them from coughing infectious droplets into the air. Public health generally does not recommend face masks for healthy people to prevent infection because masks are not very effective for that purpose. Air and infectious droplets can rush in around the edges of a typical disposable mask. There is an acute shortage of masks and they are desperately needed for sick people and health care workers.

On the other hand, something is better than nothing. A face mask may block some of the larger infectious droplets that are floating in the air. And a face mask can help people avoid touching the mouth and nose. A very basic face mask can easily be made from the sleeve of a T-shirt and two rubber bands, or from a pleated paper towel with the ends tied by rubber bands.

Face masks may be banned in many general population settings. Facility administrations should be encouraged to allow face masks when appropriate for disease control. They will likely insist on following current public health recommendations that masks are only appropriate for sick people.

Social Distancing

The idea behind social distancing is to reduce close contact between people to reduce disease spread. This has the greatest effect on the epidemic if it is implemented early and more intensely from the beginning. Americans are having a hard time waking up to the fact that stricter isolation needs to be implemented right now, not later. By the time you read this in April, the epidemic likely will have exploded already.
Even so, these prevention measures are still important.

1. Hand shaking: Virus can be passed from one person to another by shaking hands. Then it enters the body by touching the eyes, nose or mouth. Avoid hand shaking. Use alternatives: bump elbows, touch feet, whatever. Don't touch hands.

2. Group activities: When groups of people are together in a room there is an increased risk of disease transmission due to infectious droplets in the air, touching contaminated surfaces or touching hands. Group activities should be reduced in size to 10 or less, or eliminated entirely. Avoid all social gatherings if at all possible on the unit, in the yard, at meals, etc. If you must gather in a group, keep well apart. Don't touch anything or each other. Wash or sanitize before and after.

If possible, do not go to meals in the cafeteria, but if you must, try to maintain a safe six-foot distance from other diners. If you must go to work, maintain six-foot separation from other workers working there. Don't go to the medical clinic unless you are really sick. If you are required to go medical to get your medicine, try to maintain safe six-foot separation with other people in line. Do not go to assemblies, movies, gym, religious services or anywhere else that people gather. Facilities have probably stopped all such group activities already. Single person outdoor activities are safer. Group activities like sports are risky: too much close contact, yelling, touching, probably coughing too.

3. Keep well apart: When people do come together for any reason they should stay at least 6 feet apart. This helps reduce the risk of inhaling aerosol droplets spread by another person. It also helps ensure no direct contact that might result in spread of virus from one person to another.

4. Healthy stay in your cell: People who are not sick should stay in to maintain the maximum social separation possible. It may be hard to isolate yourself like that, but it will definitely slow down spread of the virus. The facility may even impose a lock down at some point just to slow or prevent spread of disease. If you are able, be prepared to self-isolate or be locked down by obtaining a good supply of food, soap, toothpaste and other personal hygiene items from commissary. Prisoners I have worked with said they generally maintain a three-week supply of food even in the best of times in case they miss a commissary day due to lockdown.

5. Sick stay in your cell: People who are mildly ill should choose to stay in their cells as much as possible during their illness. Wear a mask if you can to prevent droplet spread. Cover coughs and sneezes with tissue or cough into your elbow. If you can, avoid the medical clinic so you don't risk spreading the disease to others who must be there. However, a patient’s condition can deteriorate fairly quickly. If you feel short of breath, pain or pressure in your chest, confusion or excessive sleepiness, or notice bluish lips, face or fingertips you need prompt medical care to evaluate your condition. You may need oxygen and hospitalization urgently.

6. Protect caregivers: In some correctional systems prisoner volunteers assist in care of sick prisoners, such as hospice programs. Volunteer caregivers who work with people who may be sick with COVID-19 should be provided with appropriate personal protective equipment such as gloves, gown, and N-95 mask fitted to their face. Since there is a shortage of N-95 masks"
this is unlikely to occur. Any mask, even a bandana, is better than no mask when working directly with sick people.

### Help the sick:
Facility health services are responsible for medical care for the sick. They have to figure out how to best manage the mildly ill; whether they can stabilize the moderately ill in an infirmary setting; and when to transfer out to community hospitals for more advanced medical care. Please keep an eye on the people in your unit who are sick in their cells. If they develop shortness of breath or worsen in any way, they need access to the clinic for further medical evaluation. Others on the unit who recognize the seriousness of their condition must help them obtain access to the facility medical clinic.

### Facility Cleanliness
Environmental cleanliness is crucial to prevent rapid disease spread with so many people living and working together in a prison. Facility administration should take responsibility for organizing environmental cleanliness activities including making needed soap and disinfectant available at no cost. But if they do not do so, it will be up to prisoners to do what needs to be done to protect themselves and each other, and the officers and staff who work with them.

1. **Hand sanitizer available:** Hand sanitizer stations should be available throughout the public spaces in a facility and in dormitories. Work with facility administration to try to get this implemented.

2. **Masks permitted:** Masks should be permitted for people who are sick while in their cells or, when movement is necessary, when sick people move about in the facility. Others who wish to wear masks should also be permitted to wear them.

3. **Disinfect public hard surfaces:** Facility administration should plan to disinfect hard surfaces in public spaces at least twice a day. Prisoners should support and encourage these efforts if possible. The primary focus should be on things people touch routinely like door knobs and hand rails. Also, floors and walls within reach should be disinfected regularly.

4. **Disinfect group cells and dorms:** Facility administration should institute a policy of at least twice daily disinfection of floors, walls, doorknobs, handrails, and all other hard surfaces in common areas of group cells, unit day rooms, dormitories and bathrooms. Or at least make disinfectant available to prisoners to do so themselves.

5. **Disinfect single cells:** Facilities should make disinfectant available to prisoners to disinfect their single cells at least twice a day.

6. **Doors propped open:** Where doors can be safely propped open without compromising security it should be done to reduce contact with doorknobs.

### Efforts to slow the spread of coronavirus focus on:

- **Personal cleanliness:**
  - Keep the hands from getting contaminated with coronavirus.
  - Keep the hands away from the face.
  - Suppress infectious droplets by covering coughs and sneezes.

- **Social distancing:**
  - Keep people separate to avoid close contact.

- **Environmental cleanliness:**
  - Regularly disinfect high contact hard surfaces that may harbor virus.

These are the behaviors that will slow down the spread of coronavirus infection in your facility. They are no different from the new behaviors that everyone is being urged to do. It is harder in a prison, but even more important there because so many people are together living and working in a partially closed environment. We can do this, and we will get through it together.

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### $41,850 Settlement in Heart Attack Death at California Jail

*by Kevin Bliss*

The surviving family of Kevin Lee McLaughlin, who died of a heart attack in California’s San Luis Obispo County Jail (SLOCJ) in April 2017, attempted to withdraw from a $41,850 settlement negotiated in its wrongful death lawsuit, which claimed deliberate indifference to McLaughlin’s emergency medical needs resulting in his death. But a judge has prevented them from seeking a larger amount.

McLaughlin was arrested on January 23, 2017, for felony assault with a deadly weapon after he pushed a chair at his elderly mother. With a history of arrests at SLOCJ, the 60-year-old was listed as a high-risk detainee due to his high blood pressure, advanced heart disease, history of alcohol abuse, and reliance on psychotropic medica-
April 2020

On January 26, 2017, SLOCJ Dr. Kristopher Howalt prescribed McLaughlin a 1,200 mg daily dose of Ibuprofen, increasing that to 1,600 mg daily on February 14, 2017. At the time of his death nearly two months later, McLaughlin was still on Ibuprofen despite a 2005 warning from the federal Food and Drug Administration (FDA) that the drug elevates heart attack risk and a 2015 FDA warning that it should be avoided altogether by people with high blood pressure like McLaughlin.

McLaughlin went to jail medical staff complaining of shoulder pain early April 13, 2017. The report from the visit stated that he told the nurse, “I’m clammy — I need to go to the hospital.” It also stated he said “he may have slept on his arm wrong and felt better when he took deep breaths.” A nurse gave him some aspirin and sent him back to his dorm where, an hour later, a guard noticed his irregular breathing. The guard left and came back with a nurse only to find McLaughlin unresponsive.

After the nurse unsuccessfully attempted CPR with a defibrillator, McLaughlin was pronounced dead at 3:54 am. Due to disciplinary action taken against San Luis Obispo County Sheriff’s Office policies in the county jail, Ian Parkinson, San Luis Obispo County Sheriff, said it was the state’s laws that overburdened the jail with detainees who have serious medical or mental issues.

McLaughlin’s family initially agreed to the $41,850 settlement, but decided to withdraw the offer. In announcing that decision on October 22, 2019, family attorney James McKiernan said Dorothy McLaughlin, Kevin McLaughlin’s 85-year-old mother, would “continue on with this grueling court process to see that justice is served for her dead son and others in the county jail whose serious medical complaints are disregarded by jail medical personnel.”

Attorney for the County, Nina Negranti, said the negotiation was already signed and approved by the County Board of Supervisors and so the county intended to ask the court to enforce the agreement. On February 6, 2020 County Judge Ginger Garret granted the county’s motion with a ruling that found no provision in the agreement for withdrawal by either party after it had signed. See: McLaughlin v. County of San Luis Obispo, U.S.D.C. (CD CA), Case No. 18 CV-0275.

Source: sanluisobispo.com, calcoastnews.com, newtimeslo.com
**From the Editor**  
*by Paul Wright*

Extraordinary times call for extraordinary measures. This is one of the very few times in our 30 year history where we have changed a cover story mid-production after the magazine has already been laid out, but that is what we are doing now. Our original cover story this month was going to be on prison contraband. As the month has gone on, the news about COVID-19 has gotten steadily more dire. For long time readers of PLN, my editorial style has generally to wait and see what is actually happening because most of the time the initial media reports are wrong or exaggerated. When it comes to prison epidemics though we don’t have much in the way of actual hard news right now, but we don’t have much in the way of actual hard news right now, but we don’t have much in the way of actual hard news right now, but we don’t have much in the way of actual hard news right now, but we don’t have much in the way of actual hard news right now, but we don’t have much in the way of actual hard news right now, but we don’t have much in the way of actual hard news right now, but we don’t have much in the way of actual hard news right now, but we don’t have much in the way of actual hard news right now, but we don’t have much in the way of actual hard news right now, but we don’t have much in the way of actual hard news right now, but we don’t have much in the way of actual hard news right now, but we don’t have much in the way of actual hard news right now, but we don’t have much in the way of actual hard news right now, but we don’t have much in the way of actual hard news right now, but I fear that is coming along shortly and it

As this issue of PLN is going to press the media is awash in news about the coronavirus as it sweeps the globe. The biggest constant seems to be that, globally, prisons and jails will be hard hit by whatever eventually transpires. Iran has freed 85,000 prisoners as a result of the virus while prisoners in Italy have rebelled and taken over prisons as a result of not receiving adequate medical care. Given the current and historical medical neglect American prisoners are subjected to, and the fact that U.S. prisons and jails have been a vector for every deadly disease to hit the U.S. in the past 40 years, such as AIDS/HIV, HCV, MRSA, Legionnaires disease, drug resistant TB, etc., it is unlikely that the government will respond to coronavirus any better than it did to the others.

Another aggravating factor sure to make whatever happens much worse than it should be is the privatization of prison health care, with large portions of it under the control of corporate health companies whose entire business model depends on extracting as much money from the government as possible while delivering as little health care as possible. Faced with a pandemic potentially infecting hundreds of thousands of prisoners in crowded facilities with aging ventilation systems, are these corporations going to put public health before corporate profits? I wouldn’t bet on it.

Prisons have canceled visitation, claiming it will reduce the virus’ entry into prisons, yet nothing is said about the 1 million people who work in prisons and jails every day as guards, secretaries, food workers, etc. If the disease spreads as predicted among prison populations, are the employees going to show up for work? Historically, prison employees are not the bravest, most dedicated nor best paid public servants. What happens to the American gulag if no one shows up to watch the caged? Is this the moment for massive decarceration as is taking place in Iran? Does the American political and ruling class have the ability to use a global pandemic as an opportunity to significantly reduce its prison and jail population? And how will prisoners — not passive actors, as events in Italy have shown — respond?

We will report on this issue on an ongoing basis in PLN. If you are in prison or jail and being affected by COVID-19 please drop us a line and let us know what’s happening where you’re being held.

This is also impacting our operations. As executive director of HRDC, my main priorities are safeguarding the safety of our 17 employees and maintaining our operational capacity to advocate on behalf of prisoners and their families and keep providing timely, accurate information as we have for the past 30 years. As this issue of PLN is going to press our offices in Florida remain open with a skeleton crew of employees coming in to answer the phones, process mail from prisoners and process and ship book orders. The bulk of our legal and editorial team is working remotely from home to keep the risk of infection as low as possible. Our Seattle office is likely to be shut down any hour now as the epidemic hits Washington hard.

HRDC urgently needs donations as we are getting hit with unexpected expenses from the epidemic and I expect that to worsen. We are working harder than ever and longer hours than ever to keep our magazines on schedule and responding to all media inquiries in a timely manner. We are processing all subscription and book orders as quickly as we always have. This is a time when I would strongly recommend buying your own copy of the Prisoners Self Help Litigation Manual or Protecting Your Health and Safety.

If you have been reading someone else’s copy of PLN or CLN, this is a good time to buy your own subscription. If you can make a donation, please do so. If you believe in a free and independent prisoner rights media, then step up and support it.

For readers who are also interested in criminal law and policing issues, please consider subscribing to Criminal Legal News, the companion publication to Prison Legal News, which we also publish. Together, PLN and CLN give readers a total overview of the criminal justice system from beginning to end.

HRDC continues it efforts to stop the financial exploitation of prisoners and their families. We are seeking class action representatives for two lawsuits. The first involves anyone released from CDCR who was given a JPay debit card within the past three years and who was charged fees to access their money. In the second, GTL and Securus are operating a scheme where they charge people $14.95 for accepting a one-time collect call from a prisoner. Furthermore, GTL and Securus have a practice of taking people’s money from their prison phone account if the account is “inactive” for more than 30 days. Anyone who was billed $14.95 for a collect call or who had money taken from their prison phone account should contact us at: HRDC, Attention SPP, PO Box 1151, Lake Worth, FL 33460, (561) 360-2523 or info@prisonlegalnews.org.

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April 2020  
8  
Prison Legal News
$33,000 Settlement For Pro Se Arizona Prisoner Assaulted by Guard

by Matt Clarke

In October 2019, Arizona settled for $33,000 a pro se federal lawsuit brought by a state prisoner who alleged he was assaulted by an Arizona Department of Corrections (DOC) guard while handcuffed behind his back.

According to court documents, DOC prisoner Shawn Michael Folta was incarcerated at the ASPC-Eyman Complex/SMU 1 Unit when guard Dustin Burke delivered a food tray to his cell that was missing its broccoli portion. Folta requested another tray, Burke refused and a heated verbal altercation ensued in which Burke allegedly threatened to “fuck him up.”

Folta asked to see a sergeant and Burke later returned to his cell, allegedly to escort him to the sergeant. After handcuffing Folta behind his back, Burke led him to a blind spot not covered by surveillance cameras where he allegedly attacked Folta from behind, kneed him in the face when Folta was on his knees while asking, “Who’s the punk now?” He slammed Folta’s head into a steel dinner cart, and punched him while he was on the ground.

Burke wrote Folta a disciplinary report for assaulting him. Folta complained that he did not assault Burke but rather was assaulted by the guard. A report of a staff assault investigation by the DOC’s Office of Inspector General listed Folta as the suspect and Burke as the victim before summarizing that Folta assaulted Burke and stating that no one witnessed the assault, and no one except other prisoners witnessed the heated verbal altercation between them (despite at least three other guards being nearby in the housing area). When interviewed, the other guards denied any knowledge of what took place. The investigator did note that there was no discoloration on Burke’s jaw where Folta had allegedly head butted him, which allegedly required medical attention at a hospital two days earlier.

Folta filed a pro se civil rights lawsuit in federal court pursuant to 42 U.S.C. § 1983. He alleged violations of the Eighth Amendment prohibition against cruel and unusual punishment when Burke assaulted him. He also alleged injuries, including permanent scarring, a bruised right kidney, a right eyebrow cut requiring stitches, a bruised left side of the face, bruised and scraped knees and bruised wrists. He submitted photographs and a hospital report to support his claims. He also alleged that guard Richard Basso and Sergeant Russell Contreras failed to stop the assault.

In October 2019, Arizona settled the lawsuit for $33,000. By that time, the Arizona Attorney General’s Office was no longer representing Burke, who had retained private counsel. See: Folta v. Van Winkle, U.S.D.C. (D. Ariz.), Case No. 2:14-CV-01562-PGR-ESW

THE AMERICAN PRISON WRITING ARCHIVE

Calling for Essays by Incarcerated Americans, Prison Workers, and Prison Volunteers

The American Prison Writing Archive (APWA) is an in-progress, internet-based, non-profit archive of first-hand testimony to the living and working conditions experienced by incarcerated people, prison employees, and prison volunteers. Anyone who lives, works, or volunteers inside American prisons can contribute non-fiction essays, based on first-hand experience: 5,000 word limit (15 double-spaced pages); a signed APWA permission-questionnaire must be included in order to post work on the APWA. All posted work will be accessible to anyone in the world with Internet access. Hand-written contributions are welcome. There are no reading fees. We will read all work submitted. For more information and to request the permissions-questionnaire, write to: APWA, c/o Hamilton College, 198 College Hill Road, Clinton, NY 13323-1218; or go to https://apwa.dhinitiative.org/ Do not send added stamps. Sincerely—The APWA Editors.

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New York City Paid McKinsey & Company Millions for Failed Program to Reduce Jail Violence

by Douglas Ankney

A December 10, 2019 report from ProPublica said the city of New York paid management consulting firm McKinsey & Company $27.5 million to reduce violence at jails on Rikers Island. But an investigation by the publication revealed that McKinsey manipulated reform efforts to give an appearance of success, while the data actually showed violence only increased.

McKinsey was hired in 2014 after media reports of an alarming rise in violence at Rikers. In less than two years, serious prisoner violence and use of force by guards had both increased by 50% and the U.S. Attorney’s Office had threatened to take legal action to force reforms.

That September, McKinsey was given a $1.8 million contract to determine the causes of violence at Rikers and propose solutions. But McKinsey had no experience with managing corrections facilities, and it pitched a “proprietary workplace survey” to then-Corrections Commissioner Joseph Ponte, spotlighting how it helped increase productivity at a strip mine by 50%.

Nevertheless, by March 2015 McKinsey and corrections officials had settled on a “14-Point Plan” to curb jail violence. The plan’s provisions ranged from adding educational opportunities for prisoners to improving staff training. According to Elizabeth Crowley, former chairperson of the City Council committee that oversees the state Department of Correction, the plan’s provisions were things the DOC had come up with before McKinsey was even hired. But top city officials expanded McKinsey’s contract to more than $6 million to assist Ponte with implementing the plan.

By July 2015, eight Restart housing units were in place at the George Motchan Detention Center, one of the 10 jails on Rikers. The Restart units housed 250 prisoners and served as the proving ground for the centerpiece of McKinsey’s work — an algorithm called the Housing Unit Balancer (HUB).

HUB was designed to predict each prisoner’s propensity for violence and then calculate how to distribute prisoners across housing units to reduce the risk for violence. McKinsey provided data to show that in the first few months only one incident of violence occurred in the Restart units, while units without HUB had 32 violent episodes over the same period. Ponte thereby expanded the Restart program to facilities at Rikers.

Touting the apparent success of the Restart units, the city agreed to a contract extension in November 2015 and committed to paying McKinsey another $7.5 million. Then in October 2016, DOC Chief of Staff Jeff Thamkittikasem announced that violence in the Restart units was “down by over 70% and assaults on staff are down by 82% when compared to other similar units.” The city again extended McKinsey’s contract, bringing the bill to $27.5 million.

However, records reveal that from the beginning, jail officials were cherry-picking prisoners for the Restart units by replacing prisoners that had been selected by HUB with more docile, less violence-prone prisoners selected from a list provided by McKinsey. Instead of mixing troublesome prisoners with docile prisoners throughout the Restart units, the problematic prisoners remained in the regular units while the calmer, gentler prisoners filled the Restart units.

Greg Kuczinski, deputy corrections commissioner at the time, asked, “If you started with ideal inmates ... how is that going to translate into real change when you throw it into the general population?” That question was answered in 2017 when the city terminated its contract with McKinsey, and Mayor Bill de Blasio announced that Rikers would be closed by 2026 due, in part, to the 20% increase in violence during the 14-Point Plan period.

McKinsey is also under federal investigation for violating regulations in relation to its consulting with firms undergoing bankruptcy. In July 2019, McKinsey came under fire when it was discovered that the company consulted for ICE, offering plans on saving money by cutting back on immigrant detainees’ food, shelter conditions, and medical care while speeding up the process for deportations. Documents reveal McKinsey’s consultants complained when ICE officials rejected the plans because they violated due process and endangered the lives of detainees.

Sources: propublica.org, nytimes.com
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Illinois Prison Guilty of Censoring Free Speech Over Facebook Posts

by Kevin Bliss

An Illinois federal district court held on September 9, 2019, that Larry Harris was retaliated against when he was punished and transferred to a less-desirable prison because of what his daughter, Amanda Carrasco, posted on her Facebook account.

Harris filed a § 1983 complaint against officials of Danville Correctional Center on March 27, 2017. He alleged that the warden, Victor Calloway, had Harris placed in segregation in retaliation for statements his daughter had posted stating that a guard at the institution was stealing canteen from prisoners’ orders, purposely overcharging, and stealing taxpayer dollars.

Harris said that Lt. Charles Campbell wrote him a disciplinary report for threats and intimidation. He was transferred to Big Muddy River Correctional Center on a bad-adjustment transfer. He named Neil Flannery, Felicia Adkins, and John Peterson as co-defendants “acting in conspiracy” with Campbell and Calloway to silence his and his daughter’s freedom of speech.

Flannery and Adkins sat on the disciplinary board that refused to hear Harris’ evidence and based their decision solely on Campbell’s statement. Peterson was the grievance officer who would not fully investigate Harris’ grievance.

Harris requested $71,000 for his illegal segregation, permanent housing at Shawnee Correctional Center, employment as an industry welder, and whatever punitive damages the jury felt justified. He then filed for summary judgment as did the defendants, who sought to strike Harris’ summary judgment.

Judge Michael Mihm of the U.S. District Court held that Harris did exert some control over his daughter’s Facebook account as could be seen when Carrasco changed the entry to black out the guard’s name after Harris spoke with her. Nonetheless, Harris was not engaged in the protection of his free speech rights and, since he was not an attorney, he could not litigate for the protection of his daughter’s.

This, though, did not affect the foundation of the retaliation claim. The order stated, “Defendants remain potentially liable for retaliation, however, even if their belief as to the Plaintiff’s involvement in the protected activity was mistaken.” The citations reflected that punishment was enacted due to the Facebook postings, clearly making this a retaliatory move not affected by qualified immunity.

The Court held that the defendants retaliated against Harris’ right to complain against prison conditions. The Court granted Harris’ motion for summary judgment, denied the defendant’s motion for summary judgment and motion to strike, and remanded the case for jury trial on damages. See: Harris v. Calloway, U.S.D.C. (Central District, Illinois), Case No. 2:2017-cv-2075.
NY State Prisons Finally Stop Using Faulty Drug Testing Equipment; Class Action Lawsuit Filed by Victims

by Anthony W. Accurso

Nadezda Steele-Warrick, a prisoner at Albion Correctional Facility, was on the right track. After her 2015 conviction for assault, she had been a model prisoner, obtaining her GED, securing a spot in preferred housing, and working as a teacher’s assistant and exercise coach. She even earned her way into a family reunification program, which allowed her husband and son to stay with her overnight in private settings. She’d passed random drug screenings throughout her nearly four years in prison, and the reunification program rules required testing just before and after such visits.

During a day off from teaching classes in April 2019, Steele-Warrick was reading a book in her cell when guards informed her that her second drug test came back positive. At her disciplinary hearing, her husband testified that he did not see her use any drugs during their visit. She was found guilty of the violation and spent 11 days in a disciplinary Keeplock cell. She didn’t have access to hygiene items except during the one hour per day she was allowed out of her cell.

She was denied visitation with her family until her release in May 2019.

It turns out that she almost certainly had not used drugs because the testing equipment created by Microgenics Corporation and Thermo Fisher Scientific was suspected of being faulty. So faulty, in fact, that the prison ceased using the devices only a year into a five-year contract. Steele-Warrick has alleged that even before she got a false positive result, guards told her that they “believed something was wrong with the machines.”

In November, 2019, six months after her release, Steele-Warrick was named as the lead plaintiff in a class action lawsuit filed against the two companies “on behalf of hundreds of current and former incarcerated New Yorkers who were unjustly punished for false positive drug test results” The lawsuit was filed by Emery Celli Brinkerhoff & Abady LLP and Prisoners’ Legal Services of New York.

The prison system had entered into a $1.6 million contract with Microgenics in 2018 to supply its 52 prisons with its “Indiko Plus urinalysis analyzers,” whose brochure claimed to “provide true operational reliability.”

Prisoners began complaining soon after the new machines came into use. Prisoners’ Legal Services of New York, a nonprofit that assists prisoners, received complaints from 158 prisoners saying that despite not having used drugs, they tested positive and suffered harsh punishments as a result.

According to Thomas Mailey, a spokesperson for DCCS, the prisons stopped using the testing devices immediately after determining they were unreliable, though the agency did not elaborate on how it made this conclusion. He also said they “immediately reversed any actions taken as a result of these tests, and restored privileges to any potentially effected inmates.”

But for many people, the damage can’t be undone. Michael Kearney had been clean from his crack cocaine addiction for two years when he tested positive for opioids. A week before he was to be released, he was sentenced to 120 days in solitary instead. After missing his March 6 release date, he lost out on a construction job he had lined up for his release. He was finally freed in October.

“If you’re going to arrest somebody and put them in the box and treat them like a locked-up dog, get the right results,” said Kearney. See: Steele Warrick v. Microgenics Corporation, U.S.D.C. (E.D. N.Y.), Case No. 1:19-cv-06558.

Additional sources: nytimes.com, courthouse-news.com

Massachusetts Supreme Court Orders DOC to Free Terminally Ill Prisoners After DOJ Investigates Mistreatment

by Bill Barton

On January 28, 2020, the Massachusetts Supreme Judicial Court (SJC) voided several regulations used by the state Department of Correction (DOC) to justify denying 29 petitions by prisoners for medical parole, also known as “compassionate release.” The ruling came in a case by one of a number of prisoners who alleged prison officials wrongly rejected their applications for medical parole.

The SJC ruling followed the start of an investigation by the civil rights unit of the U.S. Attorney’s Office in Boston that is focused on abuse of elderly and ill prisoners, and abuse of solitary confinement, in the state’s prisons. The ruling came two years after the state legislature provided for the release of terminally ill or permanently incapacitated prisoners.

DOC and Governor Charlie Baker “have embraced a policy of what we call delay, deny until they die,” said Ruth Greenberg, an attorney for a number of plaintiffs, who specializes in post-conviction releases.

The Supreme Judicial Court ruling provides immediate relief to 73-year-old Joseph Buckman, who was convicted of his wife’s 1997 murder and now suffers metastatic lung cancer. Greenberg’s other client in the case, Peter Cruz, died at age 61 of renal disease before the ruling was handed down.

Greenberg, who represents the majority of prisoners denied medical parole, pointed to projections in DOC’s own master plan that by 2020 some 900 state prisoners would face “medical needs so serious as to require long-term care for chronic illness, disability, and the activities of daily life, meaning self-toileting, walking, and feeding.”

She had earlier informed federal investigators in the civil rights probe that DOC had retaliated against two of her clients who requested medical parole. After that, she said, federal investigators “were interested in talking with everybody.”

One of those two – a wheelchair-reliant prisoner in his 50s recovering from liver cancer – had lost his wheelchair-accessible cell and been sent to segregation after he
refused to crawl into a new cell. The other prisoner, who had one lung and kidney disease that left him dependent on a walker and absorbent undergarments, was accused by DOC of being involved in a fight.

“The governor should rein in the rogue DOC, enforce the law he signed, and save the state money for better use,” Greenberg said.

The law made Massachusetts one of the last states to allow extremely ill prisoners to apply for some type of compassionate release. Now, under the SJC ruling, DOC will no longer be able to deny an application simply because it is incomplete. Furthermore, the burden of establishing a medical release plan will no longer fall on the prisoner, with the responsibility instead given to DOC staff. The ruling also forces DOC to share copies with prisoners of any documents relevant to a decision on their application for medical release.

Calling it a “clean sweep” for prisoners, attorney Jeffrey Harris – who authored a supporting brief in the case – said that “the burdens that are created in the law really must fall to the DOC and not to people who are sick and dying.”

DOC is reviewing the court ruling, though it insists that it “actively maintains facilities to meet stringent state and federal guidelines,” said spokesman Jason Dobson.

He would not comment on specifics of the U.S. Attorney’s probe but promised that the agency would “continue to fully cooperate with this ongoing investigation.” The U.S. Department of Justice (DOJ) and the U.S. Attorney in Boston also declined to comment.

Another Boston-based attorney, Patricia DeJuneas, represents a 27-year-old prisoner who spent seven months in solitary confinement at Souza-Baranowski Correctional Center (SBCC) in Shirley. Following his complaint that a guard sexually assaulted him, DeJuneas said her client’s health quickly deteriorated during his time in solitary and that he begged for release.

“Unfortunately, the (DOC) fails to protect the prisoners in its care and routinely takes the word of correction officers over prisoners, even when all the evidence is to the contrary,” DeJuneas said. “Individual complaints are ignored, or worse, DOC staff retaliates against those prisoners who dare to complain...The DOJ investigation is really the only shot to get out what’s been going on.”

In late 2018, 35-year-old prison guard at SBCC, Joseph Sampson, was charged with assault and battery with serious bodily harm on a person over age 60 when he allegedly punched 86-year-old prisoner Paul Smith three times. Sampson was arraigned in December 2018, posted bail, and placed on paid administrative leave.

Elizabeth Matos, executive director of Prisoners’ Legal Services of Massachusetts, said that “officers often lack training and lack the experience to deal with that population, and that can lead to a lot of problems.”

Patricia Quintilian, a Northampton lawyer who represents a 56-year-old prisoner with liver cancer, reported an incident where her client was handcuffed so tightly during one of her visits that his hands were swelling.

“I was outraged,” she said. “The unrepresented inmates get treated worse. Whatever the DOJ decides, they’re fighting this huge mammoth thing. [Prison officials] are not going to want to fix things.” See: Buckman v. Commissioner of Correction, 138 N.E.3d 996 (MA 2020). [I]

Additional sources: bostonglobe.com, bostonherald.com, bu.edu, commonwealthmagazine.org, wgbh.org
Every state in the nation has reported prison staffing shortages since 2017, according to research by Shadowproof.

This is concerning because “staff shortages” are historically used to push for greater investments in prison systems, oftentimes riding reform waves like the one the United States is experiencing currently.

Officials claim investments are part of the modernization and improvement of carceral systems. Yet, as evidenced by the recurrence of reform movements every few decades, violence and abuse persist, and the staffing issues never truly abate.

In the first month of 2020, journalists called attention to so-called staffing crises in several states. Such issues were raised in the vast majority of other states in 2019.

Mississippi garnered national recognition for the deaths and atrocious conditions at Parchman. Staff levels were among the first excuses for such problems.

“Almost half of the roughly 1,300 corrections positions in three major facilities in Mississippi remain unfilled,” CBS News reported on January 23, pointing to a lawsuit blaming “the recent outbreaks of violence on the ‘culmination of years of severe understaffing and neglect at Mississippi’s prisons.”

South Carolina prisons are rife with violence, neglect, and inhumane conditions. An incident at Lee Correctional Institution sparked the 2018 national prison strike.

In media and political circles, this was attributed to understaffing and contraband. Prison officials readily blame understaffing for enabling the flow of contraband into facilities despite the regular arrest of correction officers for that exact offense.

South Carolina’s The State reported in April 2019 that prison leaders said understaffing was a “long-standing problem,” adding, “From providing medical care to mitigating violence to rehabilitating inmates inside prisons, the staffing crisis is a weight around the department’s ankles, resulting in high staff turnover and a dangerous work environment for those who remain on the job.”

In nearly every state, understaffing accompanies millions upon millions of dollars in overtime payments to guards working extra shifts. Overtime is mandatory in many prison systems with guards working long and often back-to-back shifts.

The focus on staffing needs over decarceration creates resistance to efforts to reduce correctional spending. All too often, the only conceivable remedy for this situation seems to be throwing even more money at corrections departments, in no small part thanks to the power of guard unions.

The rhetoric is so constrained that only further investments in carceral capacity are seen as the solution.

“It’s getting so bad in Florida’s prisons that legislators are not only receiving dire warnings from Florida Department of Corrections Secretary Mark Inch. They also have heard from a cadre of state prison wardens—a much rarer occurrence in the state capitol,” the Tampa Bay Times reported on January 3.

“The wardens are urging state senators to address desperate conditions with adequate funding. Those conditions include ignored routine maintenance, low salaries, routine 12-hour overtime shifts, poor working conditions and gang violence.”

In October, the Florida Phoenix reported the state paid $77 million to prison staff, “an exploding price tag stemming from the inability to hire and keep correctional officers at the state’s Department of Corrections.”

Alabama’s prison officials evacuated most of one of the state’s most atrocious prisons, and the department faces a federal inquiry. Again, these conditions are attributed to the fact that the prisons have “suffered for many years from chronic understaffing and overcrowding.”

“At Holman, in particular, the Justice Department found that the prison’s staff of authorized correctional officers was less than a fifth of what it should be,” declared the Delaware Republic on January 29.

Meanwhile, Alabama prison staff made over $26.6 million in overtime payments in 2016. One CO made almost as much as the governor and, with a base salary of nearly $39,000, he brought home almost $118,000 in 2017 thanks to overtime.

In 2017, the Ohio prison system paid corrections officers and other staff more than any other state agency: $61.7 million. This was nearly $49 million more in overtime compensation than the Department of Public Safety, which took the second-most amount in the state.

Terrible conditions in Colorado’s prisons are attributed to understaffing, according to a CorrectionsOne report from January 2019. The state paid $19.7 million in overtime to corrections officers in 2018.

“Despite offering incentives like sign-on bonuses, the pay is only $41,000 a year. The [Colorado] Department of Corrections requested more money to increase pay and hire more officers over the years, but requests have been denied because lawmakers want criminal justice reform first.”

New Jersey paid $38 million in overtime in 2018 while corrections officials complain about high turnover and fewer recruits.

In Rhode Island, 23 corrections officers made over $100,000 or more a year in overtime compensation. The department as a whole paid out $30.4 million in overtime in 2018. This was attributed to a “hiring freeze that diminished the ranks.”

Arizona officer vacancy is expected to reach 25 percent by 2021. At the same time, “62% of all the overtime paid out by the state in 2017-18 came from one department, the Department of Corrections. More than $40 million were spent on overtime, more than every other state agency combined.”

In Wisconsin, prison officials complained that it was difficult to hire and retain workers, and that staff struggle with low morale and should be paid more. But Wisconsin Department of Corrections “spent 500% of its overtime budget for the current two-year budget period after just one year.”

The president of the local guards’ union in Michigan said facilities were “anywhere from 30 to 40 officers short, which results in daily, mandatory shifts of overtime,” which came close to $70 million in 2017.

The guards’ union in Pennsylvania contended the ratio of prisoners to staff was 100-to-1. “In many instances, officers are being left alone with 100 or more inmates at any given time. No officer should ever be left alone. This must be addressed.”

Meanwhile, Pennsylvania’s Department of Corrections is on track to spend $108 million in overtime by the end of June, “even as the state prison population has declined at a historic rate,” according to Corrections Secretary John Wetzel.

“North Carolina paid prison officers...
more than $45 million in overtime last year, about 10 times more than it did in 2011, data show,” reported to the Charlotte Observer.

“Maryland’s prisons are facing what union officials and state lawmakers are calling a ‘staffing crisis’ — a shortage of about 1,000 officers, about 20% of positions,” the Baltimore Sun reported. The vacancies are on top of the 929 correctional officer positions Governor Larry Hogan’s administration eliminated as the prison population became smaller, according to legislative analysts.

The state paid $129 million in overtime to prison guards in 2019 and expects to pay $150 million in overtime this year.

The Illinois Department of Corrections used 977,742 hours of overtime at a cost of nearly $43 million in fiscal year 2018. California spent $340 million on overtime compensation in 2015.

Wisconsin has fought excessive vacancies by “handing out $2,000 bonuses to those who take jobs at some of the most under-staffed prisons” while spending $50.6 million on overtime in 2018.

Oklahoma spent $15 million on overtime in the face of staff shortages, and even tried to recruit teenagers out of high school.

New York state prisons aren’t short-staffed, but that hasn’t stopped opportunistic lawmakers and union officials from claiming otherwise. It also didn’t stop the state from spending $221 million on overtime in 2017.

Indiana was perhaps the lone exception to the rule. While state prison officials have not declared there’s an understanding issue, county jails have raised the alarm. This is partially due to recent criminal justice reforms in the state that sent people to county jails that would have otherwise gone to prison in previous years.

Sometimes staffing issues encourage contracts with private prison companies and county jails, both of which have their own staffing issues.

With low staffing levels, a relatively few guards and medical staff in many states can make more than $100,000 a year including overtime. Presumably, if staffing levels are where they should be, there’s less overtime but far more in employee salaries and benefits. How is it financially sustainable to increase either on top of the mounting health care and other costs of caging people? Will this check ever bounce?

Whether this is a deliberate choice or not, the rhetorical framing of prison crises as primarily staff crises narrows the available remedies.

Predictably, lawmakers, law enforcement, and even many prisoner advocates call for more guards. They demand more generous salaries and benefits, which they argue will attract less-barbaric guards. Greater investments in technology should be made, new bed space or updated facilities must be built, and care of all kinds must be entrenched further into the prison system, they argue.

In the end, staffing and recruitment always get more airtime than decriminalization, sentencing reform, decarceration and clemency.

A deluge of arrests, the layering charges, the coercion of pleas, the high rate of convictions, and long sentences are seen as almost a completely separate issue.

Brian Sonenstein is the Publishing Editor at Shadowproof and a columnist at Prison Protest.

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Continuing Problems at Texas Jail Roil County’s Relationship with GEO Group

AS PREVIOUSLY REPORTED IN PLN, Florida-based GEO Group has had a litany of problems at the jail it operates for Liberty County, Texas. During a rocky 57-day stretch in mid-2019, there were prisoner escapes and suicides, discovery of contraband, guard theft of prisoners’ trust fund monies and maintenance problems that resulted in two failed inspections by the Texas Commission on Jail Standards (TCJS). That led fed up county commissioners to seek a capacity reduction in their own jail – which would require GEO group to relocate prisoners and detainees at its own expense – while also requesting county staff to draft a Request for Proposal (RFP) to replace the privately-owned jail operator.

“It is concerning to us,” admitted County Judge Jay Knight. “The county is not responsible for the day-to-day operations of the jail, it’s GEO alone, but by statute, (county Sheriff Bobby Rader) is over the jail.”

The county owns the jail facility and is responsible for its maintenance. But no county employees are onsite because GEO Group is responsible for jail operations – a distinction that apparently left each party believing the other was liable for the jail’s many maintenance issues, which remained unresolved when TCJS arrived for an April 22, 2019, inspection. The problems inspectors found resulted in four violations:

• Keeping prisoners in holding cells over 48 hours in violation of time-limit standards;
• Incomplete intake forms for screening prisoners with mental health issues or those who are potentially suicidal;
• Incomplete medical files for previous state mental health treatment, and
• Preventative maintenance lapses, some resulting in unsafe conditions, including damaged light fixtures, missing vandal-resistant screws, exposed electrical wiring, burned and melted light covers, loose lock panels, exposed lock mecha-
The jail passed another re-inspection and was removed from TCJS's list of noncompliant jails.

"The GEO folks knew what we were up against and they stepped up to the plate," Judge Knight said.

County Commissioner Greg Arthur joined him to publicly laud the firm, which with $2.33 billion in 2018 revenues is the nation's largest private prison operator.

Soon after it passed inspection, however, the jail lost its top two GEO Group employees—the chief, who resigned, and the warden, who left on extended sick leave. The jail's September 2019 Licensed Jailer Turnover Report disclosed a 10% turnover rate for the 72 guards GEO Group employs there, among the highest rates of the state's 254 counties.

The jail has had a history of escapes, suicides and staff sexually assaulting prisoners (PLN, March 2017, p. 9; July 2014, p. 47). More problems arose in 2019:

On July 16, 2019, a guard at the jail, 23-year-old Mayra Gallegos-Balderas, was arrested and charged with theft of a total of $1,478 of prisoners' property, which was upgraded from a misdemeanor to a felony because she was a public servant.

On August 20, 2019, two prisoners, Clay Sterling Harvey, 44, and Chance Marshall Hunt, 28, escaped from the jail. They were recaptured hours later about 50 miles away.

On September 12, 2019, the corpse of Cristian David Sarmiento, 35, was discovered hanging by a bed sheet in his cell, where he was being held for Immigration and Customs Enforcement officials after an August 4, 2019, arrest for aggravated assault while free on bond on a driving-while-intoxicated charge. Sheriff Rader has turned over the investigation into the death to the Texas Rangers.

In executive session September 2019, the Liberty County Commissioners Court questioned the jail's new interim warden, Jackie Edwards, who said the jail is understaffed by five guards — vacant positions he wants to fill with a new training class.

"The pay is low, and they have rookies at most positions," noted Sheriff Rader.

"They are down five employees, which is not bad, but with the ratio of guards to inmates, they should be okay."
Former Captain at Louisiana Private Prison Sentenced for Conspiracy to Violate Ban on Cruel and Unusual Punishment

by Bill Barton

Rodrick Douglas, 38, of Monroe, Louisiana, was sentenced to serve 60 months in prison for his role in a conspiracy with five other guards at Richwood Correctional Center (RCC) to violate the Constitutional prohibition against cruel and unusual punishment.

Douglas was sentenced June 5, 2019, by U.S. District Judge Terry A. Doughty of the Western District of Louisiana, for his actions in the October 2016 incident at RCC, a privately run federal prison near Monroe.

“Correctional officers deserve our respect for the jobs they do, but we must also hold them accountable when they willfully break the law and cover up the abuse of inmates,” U.S. Attorney David C. Joseph said.

“The defendant in this case ignored his role as a caretaker for prisoners and violated the rights of those he was sworn to protect. My office is committed to upholding the laws of our land and the rights of all.”

Assistant Attorney General Eric Dreiband, who joined Joseph in making the announcement, said, “This blatant abuse of power will not be tolerated by the Department of Justice. Today’s sentencing demonstrates the commitment of the Civil Rights Division to vigorously prosecute those who inflict cruel and unusual punishment against inmates under their care.”

As part of his guilty plea in February, Douglas admitted in a signed statement that he sprayed pepper spray directly into the eyes of two kneeling, handcuffed prisoners, and then handed the can to other guards. Four other guards pleaded guilty to a cover-up: Sergeant Demario Shaffer, Quintail Credit, and David Parker each took a turn spraying the remaining inmates in the eyes, while Christopher Loring and another officer, D.R., remained in the room.”

The injured prisoners were taken to the statement, “Co-defendants Demario Shaffer, Quintail Credit, and David Parker each took a turn spraying the remaining inmates in the eyes, while Christopher Loring and another officer, D.R., remained in the room.”

Douglas’ statement was the major detailed account of the events at RCC “on or about Oct. 30, 2016.” It said guards rounded up five inmates whom they suspected of belonging to gangs. Following extensive questioning, none of the prisoners admitted to gang-related activity. The guards brought them to an area in the RCC that lacked security cameras, put them on their knees facing a wall, and cuffed their hands behind their backs. Holding a can of pepper spray in one hand, Douglas asked one man if he was a gang member, and when the man again said no, Douglas “sprayed the inmate directly in the eyes.” According to the statement, “Co-defendants Demario Shaffer, Quintail Credit, and David Parker each took a turn spraying the remaining inmates in the eyes, while Christopher Loring and another officer, D.R., remained in the room.”

The injured prisoners were taken to the corner of the room.

By mid-November, Douglas’ statement was the major detailed account of the events at RCC “on or about Oct. 30, 2016.” It said guards rounded up five inmates whom they suspected of belonging to gangs. Following extensive questioning, none of the prisoners admitted to gang-related activity. The guards

More States Restore Felony Voting Rights

by David M. Reutter

In 2019, Colorado, Louisiana, New Jersey, and Nevada enacted legislation to restore voting rights to felons who have been released from prison but are still under such supervision, the latest of 24 states to make similar moves since 1997. Still, a 2016 estimate by the nonprofit Sentencing Project pegged the number of Americans disenfranchised by such laws at about 6.1 million.

“When we start carving people out just because of a crime they committed that had nothing to do with voting, we start stripping them of their humanity,” said New Jersey state Rep. Shavonda Sumter, the sponsor of legislation that restored voting rights to 80,000 formerly incarcerated felons.

In announcing Nevada’s move to re-enfranchise its 77,000 released felons in July 2019, Attorney General Aaron Ford agreed that voting is a vital part of a former prisoner’s successful re-entry into the larger society. The shift to restore voting rights is part of the reaction to the tough-on-crime policies of the 1980s and 1990s, which resulted in mass incarceration that left the U.S. with the largest prison population in the world.

Every state, except Maine and Vermont, strips felons of their voting rights in prison. On the other end of the spectrum, Iowa is the only state to totally ban voting by convicted felons for life, though there is process by which they can ask the governor to restore their rights on a case-by-case basis. Other states ban felons from voting for a certain amount of time after release.

There are 20 states that ban voting by felons still on parole or probation, including Minnesota. But because of extreme discrepancies in the lengths of their probation sentences – some stretching for decades – four former state prisoners sued in October 2019 to force the state legislature to drop the ban on voting until probation is completed.

“It’s like being invisible,” said Elizer Harris, one of the four. “It doesn’t make our communities safer to relegate people to the corners.”

The 35-year-old has never had the right to vote, having been convicted as a juvenile in a trial that was later deemed rife with errors. When that sentence was reduced, he was freed in 2016 and now works for the state chapter of the American Civil Liberties Union (ACLU), which filed the suit on behalf of him, his three co-defendants and some 50,000 Minnesota felons still on probation.
"It is an investment in helping people connect with their community," agreed Peter Bartz-Gallagher, communications director for Secretary of State Steve Simon (D), who is the defendant in the case. "It leads to a stronger democracy and makes communities safer. This isn’t a niche issue. It affects a lot of people who are trying to rebuild their lives."

"The vast majority of people disenfranchised live in our communities, own homes, and pay taxes," said Sarah Shannon, an associate professor of sociology at the University of Georgia. "They’re not behind bars. So, what is it stopping us from allowing these folks from fully participating in our democracy?"

Florida voters restored voting rights to about 1.2 million convicted felons, except those convicted of murder and sex offenses, those on probation or parole and those who had not paid their fees, restitution and fines, in a November 2018 ballot measure. But it was unpopular with the state's Republican-dominated legislature, which immediately passed a law delaying the restoration until the former convict paid all fines, fees, and restitution imposed as part of the sentence. (See PLN, October 2019, p.58.) The Florida ACLU wrote the constitutional amendment, which excluded vast numbers of convicted felons from being able to vote based on their offenses and whether they had completed the terms of their sentence, including probation and parole and paying fines and fees. HRDC opposed Amendment Four due to its exclusionary and discriminatory nature.

That law was partially voided in October 2019 by U.S. District Judge Robert Hinkle, who ruled that former felons "genuinely unable to pay" legal fines and fees could not be denied the right to vote. A three-judge panel of the Atlanta-based 11th Circuit U.S. District Court of Appeals upheld Hinkle's ruling in February 2020. Governor Ron DeSantis has asked the full court to review the decision, and 10 states have filed briefs in support of his request.

Kentucky's Democratic governor, Andy Beshear, signed an executive order restoring voting rights to 140,000 released nonviolent felons upon taking office in January 2019. Before that, like Iowa, Kentucky automatically disenfranchised convicted felons for life.

"They deserve to participate in our great democracy," Beshear argued during his inauguration speech.

His executive order could be undone by his successor, so Beshear has asked the state legislature to codify it. Even so, about 100,000 Kentuckians convicted of violent crimes remain permanently barred from voting, just like every convicted felon in Iowa. Though that state's Republican governor, Kim Reynolds, pledged to "remove unnecessary burdens for Iowans looking for a second chance" with a new, simpler application for restoration of voting rights in 2019, Reynolds has granted just 300 requests in her three years in office.

While many advocates cheer the changes that restored voting to some felons, others see a need to alter the focus to racial biases underlying the problem. Sentencing

Project Director Nicole Porter noted that New Jersey's prison system has the nation's highest rate of racial disparity, incarcerating nearly 12 African Americans for every white person.

"We're acknowledging that historically this policy is rooted in deep racism, and we're saying, 'OK, so let's get rid of 70% of it?" said Alexander Shalom of the state chapter of the ACLU.

"We will not be '1844 no more' until we totally disentangle voting from our criminal justice system," agreed Ryan Haygood, the Democracy and Justice Fellow at the New Jersey Institute for Social Justice. (1844 is the year New Jersey excluded criminal convicts from its voting pool and restricted the franchise to white men.)

"Because we connect voting to the criminal justice system, we literally in fact link our political process with those racial disparities, with that racial discrimination," Haygood continued. "So, the next phase is the push to connect incarcerated people with the right to vote, as they do in Maine and Vermont."

New Jersey Gov. Phil Murphy signed an executive order that in March 2020 restored voting rights to released state felons at the same time he approved legislation to expunge the criminal records of those convicted of certain low-level offenses once they remain out of the criminal justice system for 10 years.

Sources: Associated Press, sparktrib.com, pewtrusts.org, newyorktimes.com, theappeal.org, npr.org, floridapolitics.com

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April 2020

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Fund to Pay Wrongfully Convicted Prisoners in Michigan Is Broke Once Again
by David M. Reutter

With the 2016 passage if its Wrongful Imprisonment Act, Michigan became one of 33 states with legislation creating a fund to compensate wrongfully convicted people, paying them $50,000 per year of their incarceration. But by early 2020 the fund didn't even have enough money to pay off existing claims.

One of those left out is Nathaniel Hatchett, 39. Arrested at age 17 for sexual assault, he spent 10 years in prison before DNA evidence proved he did not commit the crime, and the charges were dismissed in 2008. A Michigan Court of Claims ordered the state to pay Hatchett $500,000 by January 16, 2019. But there were so many cases ahead of his that now the money still isn't available in the compensation fund.

“It was good to get a judgment, but it’s not worth the paper it’s written on since they refuse to pay him,” said Hatchett’s attorney Wolfgang Mueller. “My client is hurting. He’s unemployed. They need to give him his money.”

Though the state has put $13 million into the compensation fund, its balance stood at just $323,800 as of March 4, 2019, leaving some exonerees, like Hatchett, unable to receive their court-ordered compensation.

The state’s Attorney General, Dana Nessel, was “deeply concerned” about the low funding level, said her spokeswoman, Kelly Rossman-McKinney.

“The current balance in the fund is so low that a single case or two could deplete it,” she added.

The exoneration of David Cavity is one such case. He was awarded $1.3 million as compensation for 26 years served on three counts of felony murder he did not commit. Another case is that of Richard Phillips, 73. After his release in 2017, he became the longest-serving prisoner to be exonerated, passing a term of 46 years for a 1971 Wayne County murder he did not commit. Some of that time was served for a separate armed robbery conviction, but a judge awarded Phillips $1.5 million for 30 years of wrongful incarceration on the murder charges when they were finally dismissed in 2018.

There are several other wrongfully imprisoned people awaiting compensation already awarded. Those include Neal Reddick, awarded $780,000 for serving nearly 16 years on a criminal sexual conduct charge for which he was exonerated. Another is Ray McCann, who served 20 months for a perjury conviction in a homicide investigation for which he was exonerated in 2017 —after another man confessed to the crime in 2015 — and awarded $40,000.

As of March 2019, Michigan had 28 pending cases seeking over $24 million in compensation and legal fees for wrongful convictions. While release for an exoneree is exhilarating, picking up the pieces to restart life is tough.

“It’s hard enough for me, but a lot of these guys have nothing, and they have nobody to help them,” said Aaron Salter, 36, who was freed from prison on August 16, 2019, after serving 15 years for a murder he did not commit. “They had to fight all through prison, fight to prove their innocence — and then the state won’t pay them? It’s too much. At least give a guy the first $50,000 to let them get back on their feet.”

Lawmakers stepped up in March 2019 and budgeted $10 million to help the fund pay off some of those exonerees waiting. The state’s House of Representatives also passed legislation to refill the fund again, adding a quarterly reporting requirement to ensure it isn’t depleted anymore, as well as an exception to the state’s statute of limitations on claims that are unpaid simply because the state hasn’t made the money available.

“The most fundamental role of government is to safeguard one’s right to life, liberty and property,” said Rep. Steven Johnson (R-Wayland), who sponsored the most recent legislation. “The worst thing that could happen would be to not safeguard those rights, but to violate those rights, too.”

The state Senate approved its own version of the legislation in February 2020, sending it back to the House for a reconciliation vote before heading to the desk of Gov. Gretchen Whitmire (D), who has said she will sign it into law.

Prison Plays Go on the Road, Teach Prisoners Life Skills

by Dale Chappell

The Colorado Department of Corrections (DOC) teamed up with the University of Denver’s Prison Arts Initiative and took some prison plays on the road last December. It’s the first time a prison play has gone on tour.

About 40 prisoners from the Denver Women’s Correctional Facility traveled to the Newman Center for the Performing Arts at the college’s campus to put on Charles Dickens’ A Christmas Carol for three sold-out shows.

“I think in our society, we tend to have a very specific stereotype of who is in prison,” Ashley Hamilton, founder of the college’s program, said. “My experience these last 10 years have really shown me that the majority of people who are inside are really ready to make a major change... and I think that the arts are one way they can do that.”

In another prisoner production under Hamilton’s direction, 30 prisoners from Sterling Correctional Facility, a higher security men’s prison, took the classic One Flew Over the Cuckoo’s Nest on tour to another prison. The play is about a psychiatric ward run by strict staff and is not unlike real prison, Hamilton noted. She was surprised the DOC allowed the prisoners to put on a play about how abusive the prison system is.

“We’re learning how to talk to each other, relate to each other in a way that is not prison-y, I guess you could say,” Brett Phillips, who is serving a 38-year sentence for murder, said.

Dean William, the executive director of the DOC, said bringing the arts into prison was part of a strategy to make life inside as much like real life outside as possible. “There’s a few of us leading these systems who realize that something’s wrong,” he said. “We’ve made prison a place of starkness, idleness, a place without purpose. Then we’re confused where people get out and they don’t make it. I think that’s on us.”

In California, a podcast called “Ear Hustle,” about life in San Quentin State Prison and created by prisoners, gets 30 million downloads. The state spends $8 million a year on creative arts projects in all of its prisons.

“People are looking for new ways to engage the system and to transform it from the inside out,” Wendy Jason, managing director for the Justice Arts Coalition, said about these programs.

“There is something that happens for people when they have to work on a large project and make it come to life,” Hamilton said. “We see major changes not only within the group in their ability to work through conflict... but we also see shifts start to begin within the whole prison culture.”

Sources: nytimes.com, foxnews.com, cpr.org
Ex-felons are gaining more opportunities to rebuild their lives after release without having the stigma of incarceration hanging over their heads. With such measures as Ban the Box, Second Chance Employment, and self-startups, people with criminal convictions are getting a leg up on employment, a major factor in recidivism reduction.

The ABA Journal highlighted three such individuals in its July 2019 edition. The first, David Figueroa, grew up on the streets of Chicago. After two stints in prison, Figueroa decided he wanted something different. At age 29 he began work at a construction site. He also took several life skills classes being offered at a community-based organization. From there, he pooled his savings and in 2014 started his own business - Second Renovations.

Figueroa says he makes an effort to hire convicted felons. He starts them off at $12 an hour and provides them with power tools necessary for the job. He teaches construction skills to his employees and helps them to develop good work habits. “I’m really hard on my guys for the first 30 days because a lot of them don’t have any work experience,” he said. “Sometimes it’s very hard to get these guys to commit and understand this is not a game.”

Teresa Hodge was already an entrepreneur and had a supportive family before incarceration. She was arrested for mail fraud and money laundering and spent six years at Alderson Federal Prison Camp. She said the most memorable thing she saw were so many women returning to prison, their high hopes of success after release dimmed by the hardships they faced. With the help of daughter Laurin (a graduate student at Johns Hopkins University), they created Mission: Launch, Inc., a nonprofit organization geared at teaching recently released women financial literacy, technology, and entrepreneurship. Started in 2012, it has since expanded to include men and to teach leadership training and help acquiring capital for new businesses.

Marcus Bullock, after spending seven years in prison for carjacking and weapons’ charges, got out and ultimately started Flikshop. Understanding that one of the highlights of a prisoner’s day was getting something at mail call, and realizing that social media was replacing written correspondence, Flikshop allowed family and friends to convert social media snapshots into postcards that were mailed to correctional facilities across the country.

Bullock has attracted investors such as justice reform advocate John Legend’s Unlocked Futures. His success has landed him in such magazines as The Washington Post and Forbes, as well as being featured on NPR. Bullock says the majority of his employees have been incarcerated. He prides himself on giving ex-offenders a second chance. Moreover, he visits prisons to teach entrepreneurship, savings and finance.

Forbes magazine has featured Dave Dahl and Darrell Jobe in separate stories. Dahl got out of prison and helped his brother to expand their father’s bakery. He created a new line of non-GMO, organic bread called Dave’s Killer Bread, which was so successful that it is now offered in all 50 states and Canada. He also started the Dave’s Killer Bread Foundation, which focuses on expanding employment opportunities for convicted felons and educating businesses on why hiring ex-offenders is good practice.

Jobe, another convicted felon, developed a cost-comparable plant fiber packaging product that could replace environmentally hazardous polystyrene foam. His company, Vericool, is so successful that he had $40 million in backlogged orders.

Both Dahl and Jobe say that at least one-quarter of their employees have spent time in prison. Jobe says for him it is personal. “Your future shouldn’t be based on your past,” he stated.

Sources: daveskillerbread.com, forbes.com, abajournal.com

Audit: Privatizing Florida’s Prison Health Care Was Costly and Deadly Mistake

When former Florida Gov. Rick Scott took office in 2011, he pushed to privatize health care for Florida prisoners. He promised the move would save taxpayers millions of dollars and it did, at least until 2014. An audit ordered by the state legislature found that since those initial savings, privatization has cost many millions more.

“The contracts the [Florida Department of Corrections (FDOC)] entered into between 2012 and 2015, while they saved substantial amounts of money, resulted in substantial reductions in service,” said Karl Becker, senior vice president at CGL Companies and one of the audit’s authors. “Those savings you achieved during that time, you are probably paying for now” through lawsuits and increased costs.

FDOC was the subject of a class-action lawsuit that challenged the conditions of confinement, and the provision of medical care was a large feature of that suit. It took a while, but FDOC turned things around and had in place a very adequate medical system. Then Scott, the former CEO of Columbia/HCA, a giant health care company that was fined $1.7 billion for defrauding Medicare and Medicaid while Scott was in charge, became Florida’s governor. His agenda was to privatize as much of government as possible, arguing it would achieve savings and upgrade services.

With a prison system that holds about 100,000 prisoners and a $2.2 billion budget, lawmakers were game to privatization. Yet the move to was puzzling for FDOC, at the legislature’s direction, had attempted from 2001 to 2006 to privatize its Region 4 health care. That effort with Wexford

Sources: daveskillerbread.com, forbes.com, abajournal.com

Former Prisoners Find Career Success and Help Others to Achieve the Same

by Kevin Bliss

April 2020
Health Sources failed due to the usual issues with privatization: “reductions in staffing, dramatic decreases in episodes of outside care, and the number of prisoner grievances about the poor quality of health service care,” according to the audit.

Nonetheless, the legislature directed FDOC in 2011 to privatize its entire medical care system and issue contracts that achieved a 7% savings on current costs. FDOC awarded four-year contracts to Wexford for $237.9 million for Region 4 and to Corizon for $1.1 billion to service Regions 1-3.

“While both contracts achieved required savings levels (and in fact surpassed the seven percent savings requirement), the vendors in many cases initially reduced spending by maintaining lower health care staffing levels,” the audit stated. Serious performance issues ensued.

Prisoners started dying at record levels with death rates increasing from 35 to 40 a year to over 400 a year. Negative publicity led Corizon to terminate its contract in May 2016. It was replaced by Centurion. Wexford’s contract was terminated in 2017 by FDOC, and Centurion took over Region 4, making it FDOC’s sole health services vendor.

The current three-year contract runs to 2022 and is capped at $421 million per year. That contract is a “cost-plus” model, which “does not encourage efficiency and appears to be the most expensive service delivery model,” the audit found. It requires FDOC to pay all incurred expenses and provides an 11.5% administrative fee to Centurion as profit. Pharmacy services are not part of the contract.

Overall, improvements have been seen with Centurion. “The situation has stabilized currently,” Becker said. “There’s a general consensus Centurion is doing a good job compared to the last two contracts.” The audit noted prisoner health care costs have gone up an average of 9% annually, but it said that is “attributable to misalignment between contract funding and service requirements in the initial outsourcing initiatives.” FDOC has also been subject to litigation over mental health services, Hepatitis C treatment, and hernia surgeries, which accounted for $39 million in costs.

The auditors found FDOC’s spends about $6,511 annually on prisoner health care, which was low among the nation’s prison systems but comparable to most large prison systems. That equates to $566.9 million or 21% of FDOC’s budget. A continuing contributor to rising costs for health care was attributed to a 78% increase in prisoners who are 50 or over. Geriatric prisoners’ medical costs are three times that of younger prisoners.

In commissioning the audit, the Legislature required a comparison of other models of delivery. The audit found going back to an in-source model could save the state $46.2 million annually. It noted that FDOC “has the internal capability and expertise to manage inmate health care delivery.” A university model of health care management, which is used by Texas, Georgia, and New Jersey, could save taxpayers $40 million a year, but FDOC managers who have approached the state’s universities have been unable to generate interest. Continuing the outsourcing model could achieve up to $5.5 million in savings if competitive bids were submitted, but Centurion was the only company to submit a bid the last time the contract was up for negotiation.

FDOC Secretary Mark Inch said the audit is “pretty accurate.” He has said the “status quo is not sustainable,” and he has asked the Legislature for $113 million to help increase pay for guards, fill vacancies, and reduce overtime. The long term effects of mass incarceration are having detrimental impacts in all areas of FDOC’s operations. Inch said it is up to legislators to determine its future direction. The attention to date is focused on saving money with little attention or interest in the prisoner death rate increasing over 1,000 percent since health care was originally privatized. Prisoners are indeed an expendable population in Florida.

Sources: Health Care Study: Florida Department of Corrections, November 13, 2019, Miami Herald
I n September 2019, California prison administrators and officials agreed to put a hold on a policy known as “incremental release” after complaints from prisoners and their relatives that it had been used to promote a “divide-and-conquer” strategy at state prisons by orchestrating “gladiator fights” among prisoners, with guards even betting on contestants like a spectator in the Roman empire. This has been an ongoing issue at prisons in general and CDCR in particular for the past 30 years and PLN has reported on it repeatedly in that time period.

According to the California Department of Corrections and Rehabilitation (CDCR), “incremental release” is a method for desegregating prisoners by mandating the simultaneous release of rival gang members onto the prison recreational yard – even though staff members are fully aware that the consequences could be a violent confrontation. The resulting “gladiator prisons” allegedly include the California State Prison in Corcoran, the Correctional Training Facility in Soledad and the Pleasant Valley State Prison, among others throughout the state.

The idea is not new, having first made an appearance in 1990 in the Corcoran Secure Housing Unit, where guards staged fights between black and Latino gangs, taking voyeuristic pleasure in watching from the sidelines and betting on the victor. To end the fighting, guards used pepper spray, block guns (air-powered non-lethal rifles that shoot rectangular immobilizing wooden blocks), lethal mini-14 rifles and 9-millimeter handguns loaded with deadly rounds.

From 1989 to 1994, seven prisoners were shot dead and 43 more were injured. When several guards turned whistleblower, the story became national news and charges ensued. Eight guards were tried but subsequently acquitted because a jury accepted their alibi: They had simply followed policy. “Policy” in that case allowed guards to use deadly force to stop fights and riots. What did not emerge clearly from the trial was the role guards and staff played in fueling the deadly conflict in the first place.

Tensions grew so high within many of the California prisons that the gang members themselves agreed to condemn CDCR’s “divide-and-conquer” mentality, driving the prisoners to negotiate truces. In 2012, leaders of various ethnic gangs in the Pelican Bay Segregated Housing Unit drafted an “Agreement to End Hostilities.”

But the prison system seemed to ignore the code and continued to increase tension by ratcheting up an environment that encouraged “survival of the fittest.” In accordance with “policy,” prison officials implemented a “modified program” – institutional-speak for a lockdown affecting only some prisoners in a facility. Privileges such as commissary and visitation were rescinded following any incident deemed worthy of punishment.

“Modified program” allowed the prison to vacillate between open recreation access and long dehumanizing lockdowns, during which prisoners would face inhospitable conditions, including freezing concrete cells or cells so hot the walls would sweat. Prisoners would be deprived of access to commissary items, including toothpaste and even toilet paper, and therefore become totally dependent upon their jailers.

After a September 2018 brawl at Corcoran, some 350 prisoners in rival gangs were placed on lockdown – 23 hours a day isolation - for five months. In January 2019, some 270 of them went on a hunger strike in protest of their treatment. Protest outside the prison followed in February 2019, staged by family members and loved ones.

Also in February 2019, a pair of smuggled cellphone videos captured rival gangs clashing on two consecutive days at Soledad prison in gladiator-style combat, while prison guards stood by. According to Brooke Terpstra, a prisoner advocate with the Incarcerated Workers Organizing Committee (IWOC), similar fights were staged at Corcoran and Pleasant Valley. The goal, Terpstra said, is to provide guards an excuse to keep prisoners in lockdown, where they are easier to manage in CDCR facilities plagued by mold, leaking roofs and faulty electrical systems. An April 2019 lawsuit filed by Corcoran prisoners details widespread problems, including maggots in food and rodent droppings on top of dining tables during meal times.

“Prisoners are smuggling out the video for the public even though it guarantees retaliation, like lockdowns, being thrown into a yard for fights, solitary, and possible increased time, in the hope that the outside knows what’s going on and helps them put a stop to these escalations of violence,” Terpstra said, adding that prisoners “have little to lose at this point.”

In August 2019, CDCR Secretary Ralph Diaz visited Soledad, where he was confronted by prisoners pleading for him to discontinue the practice of “incremental release.” Diaz refused. His spokesperson, Terry Thornton, insisted that “CDCR is charged with providing a safe and secure environment for everyone who lives, works and visits its institutions.”

“Furthermore, the rehabilitation of individuals entrusted in the department’s care is also a priority,” he added.

The very day after Diaz’s visit, a riot exploded at Soledad involving two hundred prisoners in rival Latino gangs – only one of which is a party to the 2012 Agreement to End Hostilities – leaving eight hospitalized and fifty injured. Prison officials held the combatants in lockdown for the next twelve days, moving 50 of them into solitary confinement.

Some family members began to band together in protest outside of various California prisons following visitation restrictions in which many had been kept, sometimes months at a time, from seeing their brothers, husbands, and loved-ones.

“To keep putting them out in the yard to kill each other, essentially, is irresponsible of CDCR,” said Alice, the wife of a prisoner serving a life sentence at Soledad, who declined to give her last name for fear of retaliation against her husband.

A ballot initiative known as Proposition 57 was introduced in 2016 to permit prisoners to earn credits for good behavior, including a reduction in sentence. But this privilege is revoked if a prisoner is involved in any form of violent act, regardless of the circumstance. Isolation from family members, and extinguished hope of ever seeing a reduced sentence, have served only to foster and heighten more hostility and violence, prisoner advocates say, further strengthening...
bonds between same-gang members who are forced to rely upon each other for protection.

According to media accounts, outbreaks of “gladiator activity” had been spurred by a gang calling itself the “Bulldogs.” This group intentionally ignored all previously executed convict-to-convict peace agreements. The Bulldogs reportedly arrived on a compound and proceeded to instigate fights.

The practice of “gladiator prison” is premised on a culture where prison officials take pleasure in fighting prisoners like dogs and only intervening after the damage is done, often with deadly force. It seems that these socially engineered gladiator fights may be intended to ultimately “justify the very existence of prison itself,” according to Truthout.org. Of course, prisoners could refuse to fight each other and focus on their collective conditions and try to improve them.

Source: usatoday.com, theappeal.org, truthout.org, shadowproof.com, visaliatimesdelta.com

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$1 Million Paid by Snohomish County Jail to Settle Detainee’s Opioid Withdrawal Death Lawsuit

by Douglas Ankney

On October 21, 2019, Snohomish County, Washington, agreed to pay $1 million to settle a lawsuit related to the death of Lindsay Kronberger. Kronberger had been a detainee at the Snohomish County Jail (“SCJ”) before she died in January 2014 of causes related to dehydration and opioid withdrawal. The suit was brought by Kronberger’s husband, John T. Gohranson, and by her father, Dale R. Kronberger (“Plaintiffs”).

The suit alleged that on January 3, 2014, the 24-year-old Kronberger was booked into the SCJ.

Kronberger self-reported she was addicted to heroin and answered “yes” when asked if she had withdrawal problems. She told Registered Nurse (“RN”) Joy Maine that she had used heroin earlier that morning. Maine placed Kronberger in the Medical Housing Unit (“MHU”) and put her on detox watch for heroin withdrawal.

Addicts undergoing withdrawal experience symptoms that include vomiting and diarrhea. While withdrawal is not fatal, excessive vomiting and diarrhea can lead to dehydration, which can be, and in this case was.

Handwritten “Progress Notes” by medical staff listed Kronberger’s weight as 97 pounds. The following day, staff evaluated Kronberger, observing that her blood pressure was low and her heart rate elevated. By January 5, Kronberger’s blood pressure had fallen to 90/50 and her heart rate was at 144.

According to the suit, these vital signs suggested dehydration and shock that may have required medical intervention to prevent serious injury or death. Instead, on January 6, Kronberger was released from the SCJ after being medically cleared by a nurse.

Kronberger was booked back into the SCJ only hours later. Powell placed Kronberger on detox watch for heroin withdrawal and assigned her to the MHU.

On the evening of January 7, a nurse gave Kronberger a medication to control nausea. Kronberger continued to report that she was vomiting and had diarrhea.

By January 11, her blood pressure was 80/40 yet no physician ever examined Kronberger. She requested to go to the hospital, but her request was denied.

On January 12, a jail guard denied Kronberger’s request for a wheelchair. Two guards half carried, half dragged her to her cell because she couldn’t stand or walk. Later that day, Kronberger nearly passed out as she tried to get some juice. Maine reported she last saw Kronberger sleeping in her bed at 9:30 p.m.

Early on the morning of January 13, a jail deputy observed Kronberger face down in the toilet.Efforts to resuscitate her failed, and she died without regaining consciousness. An autopsy revealed she weighed just 89 pounds and had lost 8 pounds over the nine days she was detained in the SCJ.

Surveillance video released during discovery revealed a jail sergeant and a deputy laughing about and mimicking Kronberger’s condition. More than a dozen people died at the SCJ between 2010 and 2014. The Plaintiffs were represented by Brewe Layman, P.S., and by Cogdill Nichols Rein & Partners. See: Gohranson v. Snohomish County, No. C16-1124 (2019).

Additional source: seattletimes.com
After a January 10, 2020, prisoner riot left three guards injured at Massachusetts’ Souza-Baranowski Correctional Center (SBCC), prisoners and their loved ones said prisoners were subjected to retaliation, losing their property, being tased, locked down 23 hours a day and denied access to phones and visits. Attorneys and prisoners’ rights groups also claimed they had been unable to contact some of their clients inside the Lancaster maximum-security prison.

“Assaults have been widely reported,” said Elizabeth Matos, executive director of Prisoners Legal Services of Massachusetts.

She added that “a number of people” who were beaten by guards then endured further physical abuse after they quizzed guards for a motive behind their behavior.

“When one of their officers is assaulted, the entire prison will pay,” Matos said, reporting what some of SBCC’s nearly 1,000 prisoners had relayed from their guards.

Three guards in Unit N1 were surrounded and assaulted during the January melee. Massachusetts Correction Officers Federated Union (COFU) President Derek O’Connor said one guard had to “fight his way out,” while another suffered a broken jaw and the last required surgery.

SBCC Superintendent Steven Kenneway immediately put the prison on lockdown. That stretched for 11 days until January 21, 2020, during which time the prison’s remaining guards, in revenge for the attack on their coworkers, subjected inmates to cruel and unusual punishment, a class-action lawsuit filed January 31, 2020, alleges. The lawsuit was filed by the Massachusetts Association of Criminal Defense Lawyers and the Committee for Public Counsel Services.

COFU released a statement placing partial blame for the riot on the state’s Criminal Justice Reform Act (CJRA), a 2018 law dealing with use of solitary confinement and compassionate release. That law gives prisoners more freedom of movement, which guards say undermines prison order. But state legislators expressed disbelief that CJRA was responsible for the riot.

State Sen. Jamie Eldridge, who cochairs the legislature’s Judiciary Committee, noted that “the major reform” effort in the law focused on abuse of solitary confinement, while “the prisoners who attacked the correctional officers were in general population.”

“And my understanding is they were part of a gang,” he added. “And so I think that much more has to do with the DOC (Department of Corrections) management than anything we passed in the criminal justice reform law.”

The legislator also accused DOC of paying no more than lip service to the law’s reforms.

“Essentially, none of these reforms have been implemented,” Eldridge continued. “So I’ve visited three prisons so far, and they haven’t been implemented. I’ve sat down with the Baker-Polito administration [GOP Governor Charlie Baker and Lt. Governor Karyn Polito] and asked: When is that going to happen? Because — at least my view is — the way you reduce tension in prison is providing more programming, more visitation, and more rights to prisoners.”

Pushing back against Eldridge’s charges, DOC issued a statement claiming its facilities “meet or exceed the requirements of Massachusetts law, including the maximum security Souza-Baranowski Correctional Center, which houses the most violent and dangerous offenders in the state,” the statement said.

“The inmates at SBCC are volatile and dangerous, as evident from the January 10 attack,” agreed Kenneway, who said there were some 300 assaults at the prison in 2019.

In addition to the lockdown, he had about 100 prisoners moved to other state facilities. Though Kenneway and his guards identified 23 “enemy combatants” who had participated in the riot at SBCC, Worcester County District Attorney Joseph Early on February 20, 2020, indicted a total of 16 prisoners on assault charges related to the incident. Early said the men would be arraigned on the charges at a later date.

The Massachusetts Association of Criminal Defense Lawyers and the Committee for Public Counsel Services filed the class-action suit against SBCC on behalf of three named prisoner defendants, claiming that the facility’s “north side has been converted into a ‘super max’ prison where inmates are deprived of all property” and “are now locked in their cells for at least 23.75 hours per day, without access to programming, media, legal materials, or writing materials.”

On February 2, 2020, Eldridge led a group of state legislators to SBCC in a surprise visit to investigate the suit’s claims. Afterward he said he wants to have “a bigger discussion about how do you improve conditions both for the correction officers and the prisoners.”

“There are some who believe that it’s a continued sort of tough on crime approach,” he said. “But I think you actually need to treat prisoners better. Quite honestly, this is a disagreement over a vision for what should be happening in our prisons.”

On February 20, 2020, the second day of a two-day hearing of the case before Suffolk Superior Court Judge Beverly Canone, SBCC prisoner Robert Silva-Prentice testified that his notes from the hearing’s first day had been confiscated by guards, who did not return them in time to prepare for the second day. DOC officials countered in their testimony that Silva-Prentis had actually suffered no harm because his paperwork was eventually returned. But Judge Cannone was not having it.

“The court does not credit this testimony,” she ruled.

Attorney Patricia DeJunes said that her client, Silva-Prentice – who is one of the three named defendants in the class-action suit – “put himself at risk by speaking publicly about the abuses he suffered at the hands of armed tactical team members.”

In a decision issued February 28, 2020, Cannone granted plaintiffs a preliminary injunction of SBCC policies that restricted prisoners from keeping legal paperwork in their cells and limited their opportunities for attorney phone calls and visits, even during business hours.

“The implementation of the restrictions at issue represents an exaggerated response to the serious security concerns here,” Cannone chided DOC. “The court can think of no greater public interest than
Kim Kardashian West Declares War on Mass Incarceration

by Ed Lyon

Nationally known actress, fashionista and activist Kim Kardashian West has two new loves. One of them is the law and the other is a burning desire to help society’s lowest esteemed class, its convicted criminals.

Kardashian, the wife of rapper Kanye West, has recently completed a one-year legal study and apprenticeship. Later this year she will take what is called the “baby bar.” If she clears that hurdle, Kardashian will be able to enter into another three years of studying the law and then be able to take the regular state bar exam.

Her particular area of concern is the mass incarceration of U.S. citizens, which numbers around 2.2 million people and is proportionally higher than any other country in the world.

One of the recent causes she successfully tackled was the case of Alice Marie Johnson, who received a 25-year prison term on a first-time non-violent drug offense. She became so passionate about Johnson, a great grandmother, that she went to visit President Donald Trump at the White House. President Trump favorably responded to Kardashian’s entreaty and granted Johnson clemency in 2018. She had served 21 years in prison.

In a direct attack on mass incarceration, Kardashian has partnered with Oxygen in order to produce a two-hour-long documentary titled Kim Kardashian West: The Justice Project.

She not only acts in the starring role but is the executive producer as well. She has repeatedly characterized the U.S. justice system as “broken.” Kardashian is hoping to “put faces to the numbers and statistics,” which “represent the millions of people impacted by this broken justice system,” she stated.

The documentary revolves around four cases. One features a sex trafficking victim and another a battered woman who finally killed the family member who was victimizing her. It is scheduled for broadcast on April 5, 2020.

Visits to the prisons to interview the four subjects are intricately woven into the story-type format of the documentary. Interviews with those prisoners’ families, friends, public officials and attorneys will be incorporated as well. The documentary is intended to offer a well-rounded, informative view of the criminal justice system and raise concerns about America’s mass incarceration problem.

Source: variety.com, bustle.com

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A new law that reduces the minimum age to be a Florida prison guard has not helped resolve “critically low” staffing levels. Effective July 1, 2019, the minimum age to be a guard was reduced from 19 to 18.

Florida has struggled for over a decade in retaining staff to oversee its more than 96,000 prisoners. In 2012, the Florida Department of Corrections went from 8-hour to 12-hour shifts in a move to reduce the number of guard positions. That move pushed many veteran career guards to retire, as they were vested in the Florida pension plan after ten years of service.

The aftermath has seen a revolving door for guards. Hiring guards and getting through the correctional training program to certify them is not a problem. Retaining them for even two years is the issue. For many, the low pay is a severe deterrent, especially when the same certification earns a higher wage at a local jail.

“Staffing at the department has reached critically low levels, and many of the staff currently employed are extremely inexperienced,” Florida Department of Corrections (FDOC) officials wrote in a legislative budget request filed in September 2019. The lack of staff and inexperience often result in prisoners being locked in their dormitories and deprived of recreation or other programming opportunities. Inexperienced staff are regularly placed in supervisory positions to oversee, often alone, a dormitory or housing area.

To address the staffing issues, FDOC has proposed going back to 8-hour shifts. That would require hiring 292 new full-time guards at a cost of $29 million. FDOC says going back to three daily shifts would reduce staff fatigue, misconduct, and lower the cost of “unbudgeted overtime dollars.” Despite an annual budget of over $2 billion, FDOC runs an annual deficit that it pays off with the following year’s budget.

While FDOC’s plan worked in the past, going back to it may be a tough task to complete. “To do that, you need to bring in more staff and keep them over the long run,” said Matt Puckett, executive director of the Florida Police Benevolent Association.

FDOC is attempting to retain staff by offering hiring bonuses to guards, who start at $33,500 annually, and by offering tuition reimbursement programs. It also proposes to increase the pay by $1,500 to guards with two to four years’ experience and $4,000 to existing guards with five or more years’ experience.

Whether that will compel high school graduates to make a career in corrections remains to be seen. Puckett says his association supports the pay raises, but the “jury is still out” on the change in work hours. Reducing the prison population and closing facilities to better use existing staff is not something that appears to be up for consideration.

Source: orlandoweekly.com

$1 Million Settlement in Atlanta Detainee’s Death From Untreated Diabetes

by David M. Reutter

A $1 million settlement was reached in May 2019 in a lawsuit alleging the Atlanta City Detention Center (ACDC) left a pretrial detainee in an unlit confinement cell to die from untreated diabetes.

When Wickie Yvonne Bryant, 55, was booked into ACDC on September 14, 2015, it was noted that she suffered from schizophrenia, bipolar disorder, diabetes, and hypertension. She said that she was taking medication for all three diagnoses. An intake test revealed an “extremely elevated blood-glucose level” of 353 mg/dl, but she refused to take insulin, saying it made her sick.

She was subsequently prescribed Metformin, an oral diabetic medication. Yet, from her intake until October 5, 2015, Bryant refused her “diabetic treatment,” which meant blood testing and medication. She submitted a request on September 20 advising officials about her medical and mental health treatment at several medical facilities.

Despite laying out her history of care regimen, ACDC’s medical staff never requested that information, nor did they offer mental health care. Her refusal to take medication for two straight days required staff, per ACDC policy, to inform a doctor to examine Bryant. That, however, never happened.

Then, on October 5, guard Marian Bullard-Whitaker moved “Bryant from her fully, functional, lit cell . . . to a dark, unlit cell . . . where the lights had not worked for several years.” That move was made contrary to ACDC policy that required a supervisor to approve such a move. Bryant continued to refuse diabetic treatment and was not offered mental health treatment or other medical care.

She did not eat her breakfast on the morning of October 12. The civil rights complaint alleged that it appeared to the detainee who delivered and picked up Bryant’s lunch tray that she lacked “the strength to get up from her bed, where she was lying, without any clothes on, to return the food tray.” No guard or medical staff checked on her condition.

The next morning Bryant left her breakfast tray untouched, and staff reported that she was unresponsive that day. They said they believed she was sleeping. While there were feces and water on the floor in front of her cell, no one “investigated whether Ms. Bryant had bowel issues or if she was physically ill.”

Throughout the day, Bryant was “unresponsive and lying in the same position,” but no one conducted an investigation or opened the cell to check on her well-being. Finally, around 7:24 p.m., three guards realized “Bryant was completely unresponsive and her body was already stiff.”

The medical examiner arrived in less than an hour. “I asked if she was taking medications while in jail and what her history was,” wrote Fulton County Medical Examiner Office investigator Betty
Honey. “No one could tell me about her history or if meds were given while she has been there.”

An autopsy found that Bryant died from diabetic ketoacidosis. Since 2008, 11 men and one woman have died in Georgia jails and prisons from diabetic ketoacidosis. “Unfortunately, that statistic is not surprising to me,” said Sarah Fech-Baughman, director of litigation for the American Diabetes Association (ADA), “and is in line with what I would expect, based on what we hear from folks.”

Diabetes is such a pervasive problem in prisons that the ADA has written policies to guide prisoner care. It calls for “all levels of custody” to have access to medication and dosing consistent with their usual treatment plans. It further says staff must be trained to recognize and respond to acute health issues.

“I know it’s not easy working in a jail,” said Dr. Bruce Bode, an Atlanta diabetes specialist and Emory School of Medicine faculty member. “(Prisoners) can tell you anything and everything they want. But if it’s a medical issue, you’ve got to evaluate it, and diabetes is clearly something that has to be evaluated. If you don’t give them insulin, they’re going to die.”

The City of Atlanta approved the $995,000 settlement with Bryant’s estate on May 22, 2019. The estate was represented by the Pope, McGlamry, Kilpatrick, Morrison, and Norwood law firm. See: Sims v. City of Atlanta, USDC, N.D. Georgia, Case no. 1:17-cv-000519.

Additional source: ajc.com
Artificial Intelligence for Surveillance Spreading to Prisons Around the Globe

by Jayson Hawkins

Artificial Intelligence, long thought to be the wave of the future, has become a present reality in prisons around the globe. Facilities in Hong Kong and China have already established themselves on the cutting edge of “smart” incarceration.

The former has outfitted prisoners with wristbands similar to Fitbits that track location and other data, like heart rates. Other programs slated to begin soon include drug-detecting robots and surveillance systems tasked with flagging abnormal behavior. Yancheng prison in mainland China, meanwhile, has completed construction of its surveillance system that features hidden sensors and cameras in each cell. This data is uploaded daily to a computer that “generates a comprehensive report, including behavior analysis, on each prisoner using different AI functions such as facial identification and movement analysis.”

Tiandy Technologies, the company that created the Chinese system, has claimed its product will eliminate escapes, but it will do more than just monitor every move prisoners make. An inspection by party officials in December 2018 concluded that employees of the facility had not fully understood “its political nature in the new era.” It also determined that guards had violated rules, thus casting doubt on their personal ethics and political loyalty.

The implied threat was that no one was invisible to the new surveillance system, and no action would go unscrutinized. The idea of surveilling prison employees and holding them accountable to legal and professional standards is a truly revolutionary idea.

Critics have raised concerns about subjecting American prisons to the all-seeing Chinese panopticon model. The utter lack of privacy while living 24/7 under the unblinking gaze of cameras could be detrimental to rehabilitation, as would a reduction in human interaction if recording equipment were used to replace guards. Yet this has been the explicit goal of American and English prisons since British social theorist Jeremy Bentham first invented the panopticon prison in the 1780s.

Prison systems that have succeeded in reducing violence and curbing antisocial behaviors, notably those in Norway and Germany, have done so not through intensive surveillance or control but by returning agency and dignity to the human beings in their care.

Facilities in the United States have so far been reluctant to implement computer-aided surveillance, but AI is being used across the United States to monitor phone calls from prisoners, including data tracking of call recipients and voice printing calls. The technology operates on speech recognition and semantic analysis to search through a database of key words. In order to keep up with regional differences and changes in prison slang, the tech providers embed investigators into correctional units.

When analysis of a phone call detects suspicious language, the company contacts law enforcement. One company, LEO Technologies, claims that in just two years of operation it has uncovered countless contraband smuggling schemes, prevented serious incidents of violence from occurring, and stopped dozens of suicides.

“Taking your life in a penal institution—that’s a huge news story, because we’re there to maintain their health and well-being,” stated Bill Partridge, the Oxford, Alabama police chief. “It [the AI technology] saves taxpayers copious amounts of money and it also helps the family because they don’t have to deal with that situation” he added. The number of suicides in prisons and jails continues to grow and the companies are not providing verifiable evidence to investigate their claims. Price gouging and exploiting prisoners and their families is however easily verifiable and, in the U.S. at least, it is prisoners and their families who are footing the surveillance bill on telephone usage.

LEO Technologies has no fixed price for its services, but its annual fees typically run in excess of $500,000 per unit with a 1,000-prisoner capacity.

Sources: abcnws.go.com, msn.com, slate.com, scmp.com, psmag.com

Suicide Rate of BOP Guards Keeps Increasing, Sets New Record

by Dale Chappell

The suicide rate among guards in the federal Bureau of Prisons (BOP) keeps increasing, reaching a record high in 2019 for the most suicides in a single year: 14.

Top brass at both state and federal prisons have known for years that the suicide rate of prison guards is much higher than the general public. It even rivals that of Vietnam War veterans. But the challenge has always been what to do about it.

A recent study by University of California Berkeley’s Goldman School of Public Policy gathered data from over 8,000 prison guards and parole officers in California and found that the problem has many facets. However, the big three factors were: dangerously low staffing levels, high levels of violence and threats of violence, and ineffective workplace programs to combat the problem.

The study was a first of its kind in trying to diagnose why guards keep killing themselves.

“ Corrections is extremely difficult and emotionally demanding work,” said Amy Lerman, the lead author of the study and professor of public policy and political science at the university. “We are just beginning to understand the huge range of mental and physical health issues that can result from exposure to violence and untreated toxic stress in the workplace.”

The Office of the Inspector General (OIG) released a report on November 22, 2019, the same day that the fourteenth suicide set a new BOP record. It found that the BOP will remain understaffed almost 12 percent for at least the next year at all of its 122 prisons.

Current BOP Director Kathleen Hawk Sawyer testified before the Senate...
April 2020

Sawyer said that the explosion in the prison population over the last 30 years combined with retirements exceeding new hires had created a severe staffing shortage. She further cited budget problems, government shutdowns, and the hiring freeze put in place by the Trump Administration as adding to the problem.

The president of the guards’ union, Shane Fausey, noted that lack of staffing is a huge concern. “I’ve never seen our staffing numbers so abysmal in my [30-year] career,” he said. “We’re down about 10,000 positions,” he explained, “and that’s not including the number of new facilities that have come on line.”

Fausey provided an example of 105 officers at one prison who had to work mandatory double shifts for 10 days straight.

“All of that extra pressure and stress on a highly stressful profession to begin with,” he said, “is a recipe for a really bad storm.”

The working conditions don’t help. Prisons tend to be stark places cut off from sunlight. And the shift into hyper-vigilance mode when guards come to work floods the body with adrenaline and stress hormones. When they do get time off, guards often rely on unhealthy coping mechanisms, like overeating or drug and alcohol abuse.

One 2009 study by the N.J. Police Task Force found that prison guard suicide was twice as high as other law enforcement officers.

Employee assistance programs exist, but are rarely used. The OIG report found that only 18 percent of the guards surveyed ever used an assistance program offered by their employer to deal with the stress. Many said they were worried about privacy and the stigma of being seen as “weak” by their coworkers.

When interviewed by ABC News in October, Fausey said, “We’re on course for an all-time record of suicide of staff.” A month later, he was proved right.

A California prison guards’ union tracked the suicide rate of guards and found that in 2012, the rate was four times higher than the state’s general population.

When California prison guard Scott Jones went to work on July 8, 2011, he never came home. A day later, his body was found with a note: “The job made me do it.” He left behind a wife and son.

Janelle, Scott’s wife, sued the state, claiming that he was harassed to death by his coworkers after he threatened suicide. She received $73,000, well less than the $100,000.00 average salary of a California prison guard.

“We are just beginning to understand the huge range of mental and physical health issues that can result from exposure to violence and untreated toxic stress in the workplace,” professor Lerman said. “Agencies around the country are starting to look for ways to better support personnel — for the good of their employees and their families, the incarcerated population, and the system as a whole.”

In a statement, the BOP said that it relies on unhealthy coping mechanisms, like overeating or drug and alcohol abuse.

One very obvious conclusion is that a minimalistic prisons designed to physically fill them with prisoners and then can’t build a bunch of prisons in remote areas, adds to the problem.

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In a statement, the BOP said that it offers assistance programs to its jailers, but that suicide in the BOP “is not common.”

One very obvious conclusion is that a minimalistic prisons designed to physically fill them with prisoners and then can’t build a bunch of prisons in remote areas, adds to the problem.

System that brutalizes and dehumanizes the prisoners in its captivity may do the same to its employees and has a corrosive effect on their humanity and mental health. For decades politicians have built stark, minimalistic prisons designed to physically and psychologically torture the prisoners confined in them 24/7 without noting that it may have a negative effect on the guards employed in them 40 hours or more a week. But the guards are free to seek employment elsewhere and especially with other economic opportunities many decide that working in sweltering prisons with no air conditioning in the summer and little heat in the winter, that are sometimes decrepit and falling apart, understaffed and dangerous, often in remote, rural places far from any entertainment or population centers, may simply not be worth the low pay and risk to their physical safety and mental health. What happens if the government builds a bunch of prisons in remote areas, fills them with prisoners and then can’t staff them?


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By Kent Russell

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What’s It Like Inside? Early Snapshots from Prisons During the Coronavirus Pandemic

by Ken Silverstein

As we are putting together the April issue of PLN, the situation with the novel coronavirus is changing by the hour, if not the minute. In the United States, the number of cases has climbed from 213 on March 8 to 173.041 on March 31 — and that’s sure to be an undercount since testing is barely off the ground. U.S. deaths as of March 31 had risen to 3,433, according to The New York Times.

It’s impossible to know how severe the coronavirus outbreak will be, but if ever there was a country primed for an epidemic, the U.S. is it. We have a serious shortage of hospital beds and ventilators. With no universal healthcare and a good chunk of the population without paid sick leave or money to pay for treatment, it’s safe to say things will get a lot worse — even with elected officials finally starting to act, some two months after the first case was confirmed in the U.S.

Schools, bars, restaurants, movie theaters and many workplaces are finally being shut down across the country. On March 19, California Governor Gavin Newsom announced extraordinary measures directing all 40 million California state residents to stay at home, the first mandatory restrictions announced in the United States. New York Governor Andrew Cuomo followed suit the following day, signing an executive order “mandating that 100% of the workforce must stay home, excluding essential services.” As of March 23, about one-quarter of all Americans were effectively living under quarantine. Even President Donald Trump, who first called coronavirus a “hoax” before declaring it a national emergency March 13, now says it may be months before it’s under control though the economy should be open by May.

Initially there were few reported cases at prisons or jails but then in mid-March reports emerged of two dozen guards and staff being infected in California, Michigan and Pennsylvania. Then on March 26, the Associated Press reported that 75 prisoners and guards at Rikers Island had tested positive.

“This virus thing is concerning and we await its arrival inside the fences,” predicts a Florida prisoner. “I just believe it’s inevitable, and when it happens it will spread like wildfire.” (We are not naming prisoners in this story. Some comments have been lightly edited for length, clarity and anonymity.)

The American carceral system holds over 2 million people in prisons, jails and detention centers. “They do not live under quarantine,” Dr. Amanda Klonsky, a scholar of education and mass incarceration who works with the Petey Greene Program, wrote in The New York Times on March 16. “Jails experience a daily influx of correctional staff, vendors, health care workers, educators and visitors — all of whom carry viral conditions at the prison back to their homes and communities and return the next day packing the germs from back home.”

Health experts have described prisons as potential “incubators” for coronavirus because it spreads most quickly in closed environments. And “social distancing” of 6 feet — what is being uniformly called for in the outside world — is almost impossible for prisoners. Furthermore, prison medical care, much of it provided by profit-maximizing private firms, is notoriously poor and prison staff coming into facilities could bring in coronavirus with them.

On March 13, the Bureau of Prisons, which oversees 122 prisons, posted an “action plan” at bop.gov, including modified operations; screening of staff and prisoners; a 30-day suspension of social visits and visits by volunteers. Legal visits would also be suspended with a “case-by-case accommodation” on the local level. An update on March 19 said prisoner transfers might need to occur to “better manage” bed space and to prevent overcrowding “beyond available resources.”

We have heard from state and federal prisoners and family members who are clearly concerned. The recommendation to practice “social distancing” is a hurdle.

“Guys sleep 3 feet away on either side of me,” said a prisoner in Florida. “There is no social distancing in here, and all routines are normal.”

Dining halls do not promote social distancing. “They have quit using the hot and cold bars in the dining hall, a prisoner in Texas said. “We’re all packed in together, so I don’t know what that’s supposed to accomplish.”

“They haven’t said anything about quarantining prisoners if they show symptoms of COVID-19,” he added. “We’re not looking forward to it though. Inmates die here one or two a month already. I can’t imagine how things are going to be when people start getting ill. There are a lot of elderly prisoners and prisoners with other health problems.”

Another challenge: cleaning products to prevent the spread of the virus, a prisoner said. “They have a crew of prisoners who go to each housing area and common area with a sprayer loaded with bleach water. They spray down tables, telephones, and common areas. They ceased doing this on Thursday the 12th of March. They are not spraying down anything with bleach anymore.”

A prisoner in Florida said prisoners had received a memo that said there would be enhanced cleaning and wiping of surfaces. “However, no extra chemicals have been issued and staff is not doing anything to carry that directive out,” the person said. “If we don’t do it of its own accord, it’s not happening. In other words, things appear normal.”

The lack of communication with the outside is on many minds. Prisoners worry about their loved ones and contact with visitors and instructors.

“The BOP has decided that visitors, volunteers, and non-essentials contractors are not to be permitted in the institutions for the next 30 days,” a prisoner said. “I am housed so far from my family, that I get visits about once every two or three years. So visits aren’t a big concern for me. But I regularly got to see my religious volunteer, and I’m enrolled in a college class which is taught by an outside instructor. I don’t know when we’ll get to see the volunteer.”

Added a prisoner in the Southeast: “They have ceased all volunteers from entering this place. Only staff enters, and rather than screening, they self-screen. I was told by a guard there’s a sign that lists symptoms with instructions to not enter if they exhibit...”
any of them. I believe it’s inevitable that we go to lockdown and since we live only 3 feet apart, a wildfire of virus will pass through here. (Thanks to God and exercise, I’m healthy) They say kitchen is prepping to do nothing but bag meals. Stay tuned.”

A volunteer teacher at a prison in Vermont said the volunteer program has been shut down because of the threat of coronavirus. She believes elderly prisoners should be released as soon as possible, especially those over the age of 60. “Many have pre-existing health conditions, such as HIV, Hep B & C, severe asthma and other respiratory disease, and cancers or heart disease,” she said. “People inside are malnourished, they are often cold at night up in Vermont; there is not consistent access to sinks and soap. I am not sure what the solution is if the state would like to keep them in custody. Could they put them on house arrest? I don’t have all the answers, but there is a serious crisis at hand and the state needs to quickly figure things out.”

One prisoner witnessed a prison-guard trainee who was “visibly sick” — runny nose, watery eyes, coughing and hacking. He was touring with other trainees. Prisoners yelled for his removal but were told to shut up. When the group headed to the infirmary, a nurse took his temperature. “She made him put on a mask and ordered him to be removed from the unit and told him to get to the hospital for corona testing.” The next day, a staff member was escorted off the unit after hacking, coughing and having a high temperature. “There is no telling how many people that the trainee and that staffer were around when they were sneezing and coughing,” this person added.

Said a prisoner in New England: “They have shut this place down and we are eating separate from other units, yet we can still go to rec and the library together. Let’s see how long that lasts. No visitation for at least 30 days, including lawyer visits, and no medical trips. They are still allowing people to be released to halfway houses, though.”

“People are going to work here but they want us to be 6 feet apart, yet we are sitting on top of each other at chow,” a prisoner in the Southeast noted. “They really need to just shut things down. And how can they have the dentist going? People breathing on each other. I am a little scared, I really am.”

He added: “What has me worried though is hearing from my friends and family what life is like outside. They were already struggling for various reasons, and I felt like I should be out there helping them. But I hear things about how grocery stores are empty and people are scared. There are thousands of BOP prisoners who are low or minimum custody, and we could be out benefiting our communities. Instead, we’re sitting in here like ducks, waiting for the red tide to come in.”

Advocates around the country have been pressing political leaders and prison officials to release prisoners with health conditions, the elderly and those facing minor charges. Some releases have taken place but the process is proceeding at a snail’s pace. Even after the outbreak at Rikers Island, only 40 prisoners had been freed as of March 22.

PLN has reported extensively on medical issues in prisons and jails in the U.S. for 30 years. A constant has been detention facilities being incubators of disease and sickness. Given the historically callous disregard by prison and jail officials, government and elected officials to prior epidemics — HIV, HCV, Legionnaires disease, MRSA, diabetes, tuberculosis and many other illnesses — there’s no reason to think their performance will be any better this time. It is important to note that the people running detention facilities in the U.S. are not medical professionals and have a dismal track record of doing anything beyond caging people. The widespread privatization of prison and jail healthcare also make it much likelier that corporate bottom lines will come before the health and safety of prisoners and staff.

Please write PLN and tell us how coronavirus is affecting your prison.

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@humanrightsdffensecenter.org, or call (561) 360-2523, or write to: HRDC, SPP Debit Cards, P.O. Box 1151, Lake Worth Beach, FL 33460.
Prosecutors Sue Firm for Selling Bureau of Prisons Adulterated Food, Spices

by David M. Reutter

The Bureau of Prisons (BOP) sued a vendor and its owner for scamming over 80 prisons of $530,000 by selling diluted spices and food products.

The suit, filed November 1, 2019, was brought under the False Claims Act (FCA), also known as “Lincoln’s Law,” for violations of the Federal Food, Drug, and Cosmetic Act (FDCA). The FDCA considers food to be adulterated if any substance is substituted, or any substance has been added or mixed or packed “to increase its bulk weight, or reduce its quality or strength, or make it appear better or of greater value than it is.”

BOP said part of its mission is to provide its 185,000 prisoners “healthy, nutritionally-sound, and appetizing meals that meet the needs of the general population and those at nutritional risk. To purchase the food necessary to create the nearly 3.3 million meals per week, BOP utilizes a quarterly bid process that involves each prison posting a request for quotation (RFQ). The winning vendor provides the lowest bid.

Charlene Brach submitted bids as FlavorPros, LLC, and does business as Richards and Daniels, LLC. She underbid other vendors and was awarded contracts in South Carolina and across the country to provide spices for prisoner consumption. The RFQ and contract required the spices to be “[p]ure — no additives, extenders, foreign matter, or flow agents.”

“Brach stated she added up to 25% filler material to spices sold to BOP,” the complaint alleged.

She did not “rely on a formula for determining the amount of filler to use, but adds filler and flow agents based on her eyes and experience.” A May 4, 2017, invoice showed FlavorPros billed FCI Edgefield $2,856 for basil, black pepper, chili powder, garlic powder, oregano, black pepper, thyme, and cinnamon.

The DOJ conducted testing and determined the cinnamon contained an average of 66% additives, the garlic powder averaged 64% additives, and the black pepper averaged additives of 57%. Dextrin, maltodextrin, starch, and flour were the key additives.

Based on those findings, DOJ suspended FlavorPros from conducting business with federal agencies. It lifted the suspension after an agreement was reached to assure food products were pure, but FlavorPros failed to deliver on 15 contracts and has not been awarded contracts since.

An end-around “to circumvent Flavor-Pro’s agreement with DOJ for heightened compliance requirements with providing food supplies to the BOP” was alleged to follow.

Enter Artisan Foods, LLC, a company registered to Brach’s son, Richard Brach. The DOJ alleged Artisan Foods delivered creamy Italian dressing to FMC Rochester that had a “best buy” date of October 2019. When the label was peeled back, it “was identified as a FlavorPros product with a ‘best buy’ date of July 2018” and a different lot number.

The BOP sought treble damages under the FCA and civil penalties under that law. Brach denied blame and said the dilutions were not her company’s fault. “I’m not guilty at all,” she said. See: United States v. FlavorPros, U.S.D.C (D. South Carolina), Case No. 8:19-cv-03118.

Additional source: citypages.com

Prisons and Jails Are Vulnerable to COVID-19 Outbreaks

Prison health is community health

by Nicole Wetsman, The Verge

Note: This story was originally published March 7.

This week, a person incarcerated in King County Jail in downtown Seattle was taken to the hospital after they were suspected of having the new coronavirus. The county says there are no cases currently in the jail, but the new virus remains a huge concern for correctional facilities, particularly in outbreak hotspots like King County. With 85 confirmed cases of COVID-19, the illness caused by the virus, the county is home to the largest known hotspot of cases of the new coronavirus in the United States.

It’s only a matter of time before the novel coronavirus enters a U.S. jail or prison, says Tyler Winkelman, co-director of the Health, Homelessness, and Criminal Justice Lab at the Hennepin Healthcare Research Institute in Minneapolis. “All prisons and jails should anticipate that the coronavirus will enter their facility, and they need to have plans for monitoring and treating anyone who has symptoms,” he says.

People regularly cycle in and out of jails and prisons, people who work in them leave and return daily, and visitors regularly stream through. Viruses of all kinds have multiple entry points, and those that enter tend to spread fast. Outbreaks of the flu regularly occur in these facilities, and during the H1N1 epidemic in 2009, many jails and prisons dealt with high numbers of cases.

“We know the coronavirus spreads quickly in closed spaces, like cruise ships, nursing homes — and jails and prisons,” Winkelman says. Many people who are incarcerated also have chronic conditions, like diabetes or HIV, which makes them vulnerable to severe forms of COVID-19.

One way to reduce the impact of the virus on jails and prisons, Winkelman says, is to avoid holding people for low-level offenses. In Iran, officials temporarily released tens of thousands of people determined not to be a risk to the public from prisons in an effort to stop the spread of the virus. People who aren’t a risk to public safety shouldn’t be held in a jail just because they’re not able to pay a bond, he says. “We are increasing their health risk by keeping them,” he says. “This is a time to make sure we have as few people at risk as possible.”

In Sonoma County, California, the jail is screening people at booking for symptoms and asking them about their travel history and contact with people who may be
sick. Those types of screenings are critical, Winkelman says. “It is essential that correctional staff are working with officials to make sure no one ill is entering a facility.”

Some jails and prisons in the US may be prepared to screen, monitor, and treat people suspected of having COVID-19. But others are far from equipped to handle it. Health care centers in correctional facilities are often substandard and understaffed, which may mean people held in them aren’t monitored regularly enough. “Symptoms need to be addressed quickly, not once a week or twice a week,” Winkelman says. Isolating people suspected of having the virus could also be a challenge in some facilities — the Hennepin County jail has four isolation rooms and set up some spaces for quarantines, but other places might not have the same capabilities, he says.

Homer Venters, former chief medical officer of the New York City jail system, wrote in *The Hill* that jails and prisons need to prepare now. “[They] need to have a plan in place to identify and house together people with suspected and diagnosed COVID-19 and those who are at high risk of serious illness if they become infected,” he wrote. Many facilities struggled to do so during the outbreaks of H1N1, he said, because jails typically house people based on the level of security they need — not their health status.

Standard public health interventions, like flu shots, are even more important during disease outbreaks — if fewer people get the flu, they can stay out of health care facilities and leave more resources available for those who really need it. “We don’t want there to be outbreaks of multiple illnesses at once,” Winkelman says. Many jails and prisons, though, don’t regularly provide flu shots. Over half of US jails did not receive H1N1 vaccines when they became available. Under 10 percent of people in Maine correctional facilities received flu shots in 2011, which contributed to outbreaks.

People in jails and prisons also may not be able to regularly wash their hands, which may promote the spread of disease. Hand sanitizer, which contains alcohol, is usually considered contraband.

COVID-19 outbreaks in and around jails and prisons don’t just have health impacts for people within the justice system. If public health officials recommend that courts not meet during outbreaks, people might be held for longer than necessary. It might be challenging for people on probation to meet with supervisors or fulfill community supervision requirements if there are restrictions on movement in an area. “It may also mean that there would be less programing and movement within a facility. Likely, at some point, visiting would be shut down,” Winkelman says. “That can increase isolation and anxiety during a period of incarceration.”

Vulnerable communities like people held in prisons and jails are often most at risk during public health emergencies — they have fewer protections from an outbreak, and may face more significant fallout from any disruptions in daily life. But protecting communities from infectious diseases means protecting everyone, including those who aren’t as able to protect themselves. “Jail and prison health care is public health. It’s community health,” Winkelman says.

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Another Settlement in Sexual Assault Case at Pennsylvania Lackawanna County Prison

by David M. Reutter

Pennsylvania’s Lackawanna County paid $1.1 million to settle yet another lawsuit alleging several Lackawanna County Prison (LCP) guards sexually assaulted female prisoners. That brings the total for lawsuits the county has agreed to settle over the last three years to $2.4 million, most of which was paid by its insurance company.

PLN has reported on the sexual assault scandal and the previous settlements. In those cases, two settlements of $750,000 and $500,000 were reached in 2016. They alleged that guard Joseph Black sexually assaulted two women while held at LCP. He pleaded guilty in 2015 to indecent exposure and other offenses and was sentenced to 45 months to eight years in state prison.

A $60,000 settlement was reached in June 2018 related to former guard Jeffrey T. Staff sexually assaulting a prisoner. [See PLN, December 2018, p. 26.]

The latest settlement was reached in early June 2019 as a global deal covering two lawsuits based on the claims of three women, who were represented by attorney Matthew Comerford. The complaint filed by Fox and Thompkins also includes the unsettled claims of former LCP prisoners Allison Demy and Joanne Perri.

That complaint details an open culture of sexual assault and groping by guards upon prisoners. It alleges the misconduct occurred from 1998 to 2015. The allegations include claims that the prisoners were given extra privileges such as food, cigarettes, and candy in exchange for exposing themselves or providing sexual favors to guards. In some instances, the prisoners were threatened with the loss of recreation or shower privileges if they refused the sexual overtures.

Some prisoners on work release were given alcoholic beverages and taken to places to have sex. The sexual favors did not always end upon release. The complaint alleges that guards would threaten to have former prisoners on supervision violated and returned to jail if they did not consent to sex with the “stalking” guard.

Former LCP guards Mark A. Johnson, John Schnipes, and James J. Walsh are awaiting trial on criminal charges related to sexually assaulting female prisoners. PLN will report on this as developments in this flagrant human rights scandal continue to unfold. See: Fox v. Lackawanna County, U.S.D.C. (M.D. Pa.), Case no. 3:16-cv-1511.

Additional source: The Times-Tribune
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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As Coronavirus Spreads, New York Governor Exploits Prison Labor to Produce Hand Sanitizer

_by Michael Fortino, Ph.D._

On March 9, with fears of coronavirus spreading, Governor Andrew Cuomo of New York held a press conference to announce the debut of a new hand sanitizer called NYS Clean. It will be produced by state prisoners paid approximately 16 cents per hour through CorCraft Products, a division of Correctional Industries.

The prison-based manufacturer uses prison labor to produce myriad products — mattresses, pillows, textiles, glass cleaners, floor cleaners, degreasers, laundry detergents and other consumer and industrial products. Cuomo described NYS Clean’s fragrance to be “like a floral bouquet” as he pulled back a curtain at the press conference to reveal plastic bottles filled with the new product.

“New York can make a one-gallon bottle for $6.10 and a seven-ounce bottle for $1.12 which is much cheaper than the open market,” Cuomo said during the product launch.

Projections released during the press conference suggested that prisoners could generate about 100,000 gallons of the product per day. The announcement was made in the wake of shortages of hand sanitizers and price-gouging scams. One online seller advertised a 12-ounce bottle of hand sanitizer for $704.

Critics questioned whether New York was exploiting prisoners in a similar manner. “There is price gouging happening across the state in a public-health crisis, so I applauded the governor for acting very quickly,” said state Senator Zellnor Myrie of Brooklyn, “but I am incredibly concerned quickly,” said state Senator Zellnor Myrie of Brooklyn, “but I am incredibly concerned that source without putting out a contract for bid. New York Assemblyman Nick Perry called the prison labor system a “last vestige of slavery.”

Sources: nbcnewyork.com, usatoday.com, timestelegram.com

Ninth Circuit Reverses Suit Over Fees Charged Prepaid Debit Cards Given To Released Prisoners

_by Bob Williams_

On March 16, 2020, the Ninth Circuit reversed and remanded a lower court decision dismissing a suit brought by a released prisoner over the fees charged to use the release funds placed on a debit card. The Human Rights Defense Center represented the plaintiff in this case.

Danica Brown was arrested in Portland, Oregon on November 25, 2014, for participating in a public protest. She was carrying $30.97 in cash at the time. She was released about seven hours later, with the charges eventually dropped. Instead of releasing her cash back to her, the Multnomah County Jail gave her a Numi Financial prepaid debit card with a $30.97 balance.

On the Numi website, Brown discovered that to get her funds she could make a transfer to her bank but declined to do so, not wanting to release her bank account information. She also discovered a monthly fee of $5.95 but assumed it would apply only after 30 days. On December 1, 2014, Brown attempted a $15 purchase with the Numi card but was declined for insufficient funds. Earlier that day, Numi had deducted the $5.95 monthly service fee, leaving her short of the $15. Worse, they then deducted another $0.95 for the declined charge.

On January 1, 2015, Numi deducted the remaining $0.07 in partial payment of the monthly service fee. In total, Brown paid $6.97 to use the $30.97 returned from her arrest (a 22.5% total fee).

Brown filed a complaint in the United States District Court for the District of Oregon against Numi and its partner, Central National Bank and Trust Company, alleging violations of the (1) Electronic Funds Transfers Act (EFTA); (2) Oregon Unfair Trade Practices Act; (3) Fifth Amendment Takings Clause; and (4) conversion and unjust enrichment under Oregon state law.

In the legal wrangling that ensued, Brown filed two amended complaints with leave to file a third denied. Ultimately, the District Court dismissed the EFTA claim for failure to state a claim, denied her leave to reinstate the claim, and granted summary judgment on the takings and state law claims.

On appeal, the Ninth Circuit reviewed the failure to state a claim _de novo_ and held that Section 1693i-1 of the EFTA prohibits charging service fees for general use prepaid cards used within the last 12 months. Rejecting Numi’s claim that these cards are not marketed to the general public and therefore are exempt from the EFTA, the Court found that upon Brown’s release she was a member of the general public, thus invoking the EFTA, and that Numi indirectly marketed the card to her through Multnomah County Jail, which gave her no choice in using the card.

Reviewing for abuse of discretion, the Court found that Brown should have been allowed to reinstate her EFTA claims under sections 1693i and 1693i-1 in her third amended complaint. New information that would have been included in this amended complaint was evidence that Numi displayed “large, color posters” in

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来源：timestelegram.com

审核：Michael Fortino, Ph.D.
Funding and Leadership Failures Result in Less Criminal Justice Data

by Anthony W. Accurso

Several late or missing reports from the Bureau of Justice Statistics (BJS) highlights a trend toward less reporting and accountability by the federal government.

The Crime and Justice Research Alliance, a nonprofit group that advocates for more funding for and access to criminal justice data, sent a letter on October 18, 2019 to the Department of Justice expressing concern about the federal government’s failure to post research data critical to assessing trends in crime, policing and prisons.

This data is critical for nonprofits and legislators when proposing policy initiatives based on trends and issues arising in a criminal justice context.

“How can lawmakers and policy experts engineer legislation to address a problem across several distinct political and bureaucratic regimes if they have no idea what they’re dealing with in the first place?” asked Pacific Standard magazine.

Several important data sets have yet to be released or were significantly delayed. These include the Survey of Prison Inmates, the BJS Background Checks for Firearms Transfers Report Series, and the Deaths in Custody Reporting Program (DCRP). The DCRP data is especially important since its data includes information on suicides of people in custody, a number that was increasing at an alarming rate in 2014 — the last year for which this data has been made available.

Unfortunately, we’re unlikely to see any movement on this front until a new president takes office. President Trump appointed Jeffrey Anderson to lead the BJS in late 2017. Anderson’s only prior statistical experience was his co-creation in 1992 of a company that tracked football statistics. Also distressing is a shift in language used by the BJS since his arrival, which reflects the administration’s priorities of emphasizing punitive views on juvenile justice issues and minimizing racial disparities in policing.

Modern, bipartisan approaches to criminal justice reform have centered on a “smart on crime” approach. Such an approach relies on good data to make better, more informed decisions. It’s difficult to know how we can do better when we’re deprived of data critical to making those decisions.

Sources: psmag.com, prisonpolicy.org, crimeandjusticeresearchalliance.org

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On December 6, 2019, Governor Ralph Northam suspended a Virginia Department of Corrections (DOC) policy that authorized strip searches of minors. An 8-year-old girl had been subjected to a strip search November 24, 2019, at Buckingham Correctional Center (BCC) in Dillwyn, before authorities allowed the child to visit her father.

“I am deeply disturbed by these reports — not just as governor but as a pediatrician and a dad,” Northam told a local newspaper. “I’ve directed the Secretary of Public Safety and Homeland Security to suspend this policy while the department conducts an immediate investigation and review of their procedures.”

Even under then-existing rules, it appears that the incident in question was not allowable.

DOC Director of Communications Lisa Kinney wrote, “It is deeply troubling and represents a breach of our protocol. We sincerely apologize to this child and her family and will be taking immediate disciplinary action against the person responsible. Our procedure states that only a parent or legal guardian can approve the strip search of a minor; in this case, the adult visitor who signed the consent for the minor to be strip searched wasn’t the minor’s parent or legal guardian. The staff member who authorized the search of the minor following a K-9 alert didn’t have the authority to do so. We take this matter very seriously and as mentioned above will be taking immediate disciplinary action against the person responsible.”

Diamond Peerman, the girlfriend of the 8-year-old’s incarcerated father, had accompanied the child on the two-and-a-half-hour road trip from Hampton to the BCC.

At the beginning of the visitation attempt, after the K-9 alert, Peerman asked whether the child would be subjected to a strip search as well as herself. She said prison guards initially said no, but after talking with a captain, that decision was rescinded.

Peerman told the DOC captain and other guards that she was not the child’s legal guardian, but they informed her that she had to sign the consent form anyway.

The child asked Peerman what being strip searched meant and Peerman said, “I told her, that means you have to take all of your clothes off or you’re not going to be able to see your dad. That’s when she started crying.”

Two female guards took Peerman and the child to a bathroom. First, Peerman was strip searched and told to bend over and cough; then, after also being strip searched and told to bend over and cough, the child was slowly handed back her clothes piece by piece, and one of the guards asked her, “How old are you, sweetheart?” Peerman said, “I just looked at her and I’m like, ‘That’s not even appropriate to be asking her right now. Why would you ask that when she’s naked?’”

No contraband was discovered on either Peerman or the child, nor during a search of Peerman’s car. They were eventually allowed to visit the girl’s father but only with glass separating them; no contact visit was allowed.

The child was haunted by the strip search, according to her mother. The 8-year-old already suffered from bipolar disorder, depression and ADHD. “She’s a minor, she’s a girl. She was traumatized,” said her mother. “She gets emotional, she will break down.”

Regarding Northam’s ruling, Peerman called it a good first step, “It feels good that they did it but [the strip search] shouldn’t have been done anyway. There’s no reason for them to strip search a child.”

The child’s mother suggested she may file a lawsuit. “The system is really crazy,” she said. “The policy was broken before they made her go through a strip search.”

“Her and her dad have a good relationship … because she gets to go see him every weekend,” she added. “But at the same time, she went through something that traumatized her. I’m not sending her back there.” Sadly the strip searches of children in prisons and jails are all too common around the U.S. and reflect the dehumanizing nature of the U.S. police state.

Source: pilotonline.com

The Ongoing Push to End Outrageous Prison Phone Charges

Groups in several states are drawing increased attention to the high cost of jail and prison phone rates, and pushing to reduce or eliminate such charges. HRDC, the publisher of PLN, has been a leader in this movement since 1992 and founded the Prison Phone Justice Campaign in 2012 to end the financial exploitation of prisoners and their families. It has achieved significant reductions in the cost of prison and jail phone calls. But much more is still needed. PLN has reported extensively on this issue over the past 28 years.

Unless someone has been through the criminal justice system themselves, or tried to stay in contact with a family member or friend in jail or prison, they are unlikely to be aware of the $1.75 billion industry that gouges consumers by providing phone services to prisoners.

There are few providers for inmate calling systems, though the two largest providers, Securus and Global Tel*Link, form a virtual duopoly in the market. Securus has contracts with about 3,400 prisons and jails in the United States, and Global Tel Link has over 2,400, according to a December 31, 2019 story from NBC News.

These companies “negotiate” contracts with jails and prisons, though smaller facilities often have little room for negotiating. This results in widely varying rates.

In Utah alone, 24 counties operate a jail facility, and each charges a different rate. For a 15-minute local phone call, the
cheapest county is Box Elder at $1.56. The most expensive is Millard County at an eye-popping $11.46. “People don’t call home,” said Casey Cormani, a Utah state prisoner housed in Millard County as part of Utah’s program to reduce prison overcrowding. “It’s just too expensive. I feel like this is separating families rather than keeping inmates closer to their families.”

In 2014, under pressure from HRDC and the Prison Phone Justice Campaign, the Federal Communications Commission (FCC) capped interstate rates at 21 cents per minute. The FCC cited statistics that said prisoners who maintain contact with family and friends are less likely to commit new crimes after their release. More contact between prisoners and the outside world also reduces disciplinary problems, making such environments safer for prisoners and prison staff alike. HRDC’s comments were cited dozens of times in the FCC order.

But the FCC stopped short of regulating intra-state calls from jails and prisons, and all efforts to reintroduce such measures at the federal level have been blocked by FCC Chairman Ajit Pai, who was appointed by President Trump in 2017 and who has long opposed such regulations. The prison telecoms filed suit to roll back the modest FCC caps on intrastate rates and two days before oral arguments, Pai instructed FCC lawyers not to defend the rates. HRDC intervened in the case to defend the order.

The D.C. Circuit then duly struck them down. See: Global Tel*Link v. FCC, 866 F.3d 397 (DC Cir. 2017).

In the meantime, groups have been working at the local and state level to change this system, which takes advantage of a largely poor, “captive market.” Worth Rises, a prison reform group, was successful with its efforts in New York City, and now all outbound calls from the city’s jail on Rikers Island are free of charge.

Groups advocating for similar changes have formed in more than a dozen other states, but they face another challenge: local sheriffs. When county jails contract with companies like Securus, they receive kickbacks based on the total revenue from calls. Responding to a proposal in Massachusetts to reform this system, Bristol County Sheriff Thomas Hodgson said it would deprive his jail of $750,000 per year in revenue. While some jails claim to earmark this money for rehabilitation programs, it is often used for general maintenance. Even if true, it is unfair for rehabilitation efforts to be borne on the backs of prisoners’ families. Much more common are jails using phone kickbacks to pay for everything from squad cars to shotguns and Tasers.

Peter Wagner of the Prison Policy Initiative calls these fees a “regressive tax structure” that charges the poorest residences for county services. “Sometimes the money is used for good purposes,” said Wagner. “But if so, there should be other ways to pay for that.”

According to Hodgson, there is a much easier solution than reform. “Here’s a simple alternative: Don’t come here. Stay out of jail and leave people in your neighborhood alone,” said Hodgson. This is the kind of attitude that reform groups must work to change if they are to succeed in their push for a just and equitable system.

HRDC executive director Paul Wright argues that prison and jail officials need to stop seeing prisoners and their families as money making centers to be monetized and financially exploited. If they want more money to keep caging people they need to raise taxes on everyone to pay for it.

Sources: commonwealthmagazine.org, wxxinews.org, sltrib.com, democratandchronicle.com, desmoinesregister.com, politifact.com, NBC News.
Former Prisoners Succeeding in Hospitality Industry

By Ed Lyon

Regarding employment for newly released prisoners, two stereotypical jobs often come to mind, washing dishes and bussing tables at diners or restaurants. While those jobs are certainly still available, more and more prisoners are taking advantage of hospitality education and training to become cooks and chefs, filling an increasing demand in eateries across the United States and in Great Britain.

As is so often the case, California is leading the way in this area with San Quentin prison’s Quentin Cooks (QC). A culinary training program begun in 2016, QC was founded by restaurant chefs Lisa Dombroski and Helaine Helnitzer. QC’s aim is to impart basic to advanced cooking skills that are required in order to work in a commercial kitchen to prisoners. Teamwork and understanding of interaction with coworkers from diverse backgrounds also are part of the training.

The course lasts for 12 weeks with an average of nine men per class. Of the five successfully completed classes, 29 men were released. Twelve got jobs at well-known establishments like Oakland’s Homeroom and the Smoke Berkely barbecue restaurant.

The programs continue under the tutelage of local Marin County chef Huw Thornton and his assistant Adelaar Rogers. Graduates receive a Food Handler Certificate from the Marin County Department of Health.

Los Angeles, Californian Francisco “Frank” Mendoza began his sojourn into food service in 2010 after his release from state prison. Mendoza learned the ins and outs of sushi from his nephew who holds the title of suchero, or sushi master. Together they purchased a used hot dog cart through a Craigslist ad, repurposing it into a sushi cart. During the past nine years, he has opened and now owns three restaurants called Sushi Loco — and gainfully employs 120 citizens.
On the nation’s East Coast, former federal prisoner Candido Ortiz opened his El Sabor del Cafe in Jersey City, New Jersey, on December 17, 2019. During his time in prison, Ortiz became interested in food service. Working his way up the ladder, he earned competency certificates in several culinary arts areas and became the prison’s head cook with 20 assistants preparing meals for a population of 2,500 men. He was released in 2016 with other prisoners serving disproportionately long sentences for relatively minor drug offenses by order of President Obama.

His stepping stone to restaurant ownership was his successful completion of New Jersey’s Reentry Corporation Program.

Not too far from Ortiz’s cafe is the Fife and Drum Restaurant. It is a tiny luncheonette consisting of only 12 tables and is open from 11:30 a.m. to 12:45 p.m. The price for a meal is a beyond-reasonable $3.21 with rave reviews for the taste and quality of the fare being the norm. The only catch is that you have to go to prison to eat there.

This particular establishment has been in operation for 22 years and is staffed exclusively by state prisoners who cook, bake, serve, clear tables and wash dishes, learning all of the aspects of commercial food service businesses.

Located at the Northeastern Correctional Center in Concord, Massachusetts, the program is run by former restaurant owner and current instructor Eddie Jacobs. Vegetables and herbs used to prepare meals are grown at the pre-release minimum security prison. Many former program graduates have moved on to lucrative hospitality positions, with one of them hosting a Food Network show.

Across the Atlantic Ocean in Great Britain is a unique restaurant chain. It is appropriately called The Clink with its four eating establishments located in the Brixton, Cardiff, High Down and Styal prison units. A prospective patron must first be vetted by a security background check and not mind dining with plastic cutlery and the absence of any alcoholic beverage. The prisoner participants earn City and Guild vocation qualification certificates, opening the door to a workforce as shorthanded as its counterpart is in the U.S. Recidivism rates that vary between 37 percent and 62 percent are down to 15 percent among The Clink group releases. The Clink project has expanded to encompass four more prisons at present.

Back home, the U.S. Department of Labor has granted $4.5 million to the National Restaurant Association Educational Foundation (NRAEF). With that grant, the NRAEF expects to implement a program called Hospitality Opportunities for People (re)Entering Society (HOPES). NRAEF hopes to roll out HOPES over a three-year period in Boston, Massachusetts; Chicago, Illinois, and Hampton Roads and Richmond, Virginia.

NRAEF envisions training prison releases in much the same way as the programs discussed above do with near-guaranteed job placement in the four initial locations, eventually expanding across the nation.

NRAEF Vice President of Communications Gordon Lambourne stated that America’s restaurant industry has “one million unfilled jobs.” With 2.5 million prisoners, America has plenty of people to fill them.

Sources: abc7.com, bbc.com, bostonglobe.com, latimes.com, newjersey.news12.com

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Is someone skimming money or otherwise charging you and your loved ones high fees to deposit money into your account?

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This effort is part of the Human Rights Defense Center’s Stop Prison Profiteering campaign, aimed at exposing business practices that result in money being diverted away from the friends and family members of prisoners.

Please direct all related correspondence to kmoses@humanrightsdefensecenter.org

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Prison Legal News
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California’s New “Progressive” Governor Seeks to Halt Parole for Some Murderers and “Serious” Offenders

by Bill Barton

When convicted Newport Beach sex offender Trenton Veches won parole in mid-March 2019, it was granted despite opposition by California Gov. Gavin Newsom, who has otherwise displayed a progressive criminal justice reform position, including his controversial death penalty moratorium announced in March. But since taking office in January 2019, the governor has attempted to stop at least 33 parole cases wherein a “serious offender” has been granted release, according to documents provided by the governor’s office.

“Parole hearings usually take place in front of a two-person panel,” explained Newsom’s spokesman, Brian Ferguson. “The governor can’t revoke these paroles but can ask the state’s 15-member Board of Parole Hearings (BPH) to review them.”

Newsom has also stopped 46 paroles for murderers using “a different process that allows him to act unilaterally through executive powers,” Ferguson added.

“Each case that comes before the governor is evaluated on its own merits and receives careful review and consideration,” he said.

The 45-year-old Veches was convicted by a jury in a high-profile 2007 case – while working as a supervisor in a municipal youth recreation program, he “liked to suck on the toes of young boys” – and sentenced to two concurrent life-in-prison terms. Veches’ mother, Joyce Ormes, said that Newsom’s challenge of her son’s parole “is haunting me,” Ormes said. “I know the governor is new and I understand his concerns, but my son won’t be back [in prison]. He’s probably one of the best candidates for parole.”

Newsom’s parole interventions reflect a noticeable increase over those of his predecessor as governor, Jerry Brown. In 2018, Brown requested that BPH review seven cases. He also reversed just 28 paroles for murderers, though at his 2014 peak he hit 133 reversals. In Newsom’s first three months in office, however, he made over four times Brown’s number of requests in a comparable period, and at that rate will likely match — or even exceed — Brown’s peak year for murder case reversals.

Each year, California holds between 4,000 and 5,300 parole hearings, according to a recent legislative report. In 2020, that is expected to jump to 7,200 and rise again to 8,300 next year. Changes brought by Proposition 57 alone could add up to 4,000 new hearings, according to Michael Romano, head of the Three Strikes Project at Stanford Law School.

Approved by voters in 2016, Proposition 57 extends the opportunity for parole to felons convicted of nonviolent offenses – including sex offenders engaged in prostitution or possessing child pornography – while also providing credit to sentences for rehabilitation, good behavior, and education.

“We believe Prop. 57 says very clearly that everyone convicted of a nonviolent offense should get early consideration for parole,” said Janice Bellucci, an attorney who serves as executive director of the Alliance for Constitutional Sex Offense Laws. “It’s going to keep (parole boards) very busy.”

In addition, there are 34,136 California prisoners serving life sentences with the possibility of parole, according to the California Department of Corrections and Rehabilitation (CDCR), a number that dwarfs the nearly 8,500 “lifers” with parole potential in Texas, the state with the second-highest number.

CDCR has been under pressure to reduce its prisoner population since a 2011 ruling by the U.S. Supreme Court found such severe overcrowding to constitute “cruel and unusual punishment” for inmates, violating a right guaranteed by the Eighth Amendment to the Constitution.

That same year Jennifer Shaffer took over as Executive Director of BPH and began a serious effort to bring its procedures in line with another pair of Supreme Court decisions reached in 2008 that required parole decisions to be based on the danger posed by a prisoner rather than the serious-
with sexual crime," Shah said. "The way [sex offenders] are painted, they are monsters."

Newsom also reversed a decision to parole Jesus Cecena, who was 17 years old in 1979 when he shot and killed a San Diego Police Officer, Archie Buggs. Convicted of first-degree murder, Cecena was initially sentenced to life without parole, but his sentence was modified to life with the possibility of parole following an appellate ruling that juveniles could not be sentenced to no-parole terms.

Between 1986 and 2012 Cecena was denied parole 14 times. In 2014, after he disavowed the gang life to become a Christian and a "model prisoner," a board finally cleared him for release. Newsom's decision marks the fourth time in the last five years that the governor's office has reversed a parole board's decision to free the now 57-year-old Cecena.

Additionally, Newsom reversed a parole recommendation for Leslie Van Houten, the youngest of Charles Manson's murderous "family." Van Houten was 19 at the time the group slaughtered four people in Hollywood, including Valley of The Dolls actress Sharon Tate. Now 69, Van Houten is serving a life sentence at the California Institute for Women in Corona.

“When considering as a whole, I find the evidence shows that she currently poses an unreasonable danger to society if released from prison at this time,” Newsom wrote.

The January 2019 decision marked the third time that a California governor has overruled a parole board on Van Houten's case; his predecessor, Brown, turned her down twice. Prior to that she made 18 unsuccessful attempts before securing a recommendation for release.

In contrast, Newsom could have reversed parole for Michael Lynn Thompson, 67, but instead the governor allowed the high-ranking member of the Aryan Brotherhood to be paroled on August 12, 2019, after serving nearly 45 years in prison for two murder convictions. Back in April 2019, when he was tentatively granted parole, he explained to commissioners that he refrained from fighting back when a Mexican Mafia hitman attacked him in 1979 with a knife.

“I took the weapon, and put it under-neath me, and I laid down until staff got there. And that was in keeping with my vow of nonviolence.”

Thompson's status as an informant and dropout from the Brotherhood makes him a target for murder by the group or its allies, and therefore no information has been released regarding where he is. He cooperated with the police in the 1980s, leading to a number of prosecutions, in some of which he testified in as a prosecution witness. That included one instance worthy of a scene in a courtroom movie drama, when he was snuck into a courthouse through a hollowed-out vending machine.

On August 7, 2019 Gov. Newsom issued seven pardons. Among those pardoned was 37-year-old Quoc Nguyen, who came to the United States as a child refugee. He was convicted of assault with a deadly weapon in 2004, a charge that included an enhancement because he was in a street gang. The Trump administration had sought to eliminate deportation protections for illegal immigrants with criminal records.

Newsom wrote in his pardon order that Nguyen's possible "impending deportation" and the possibility that he could be separated from his family "further justifies" clemency. Nguyen was incarcerated for a year and a half and then was on parole for almost three years. Since then, he "has demonstrated that he is living an upright life," the governor's office wrote.

"He has a stable job to support his elderly mother and his girlfriend, who is completing nursing school," a spokeswoman from Newsom's office said.

On October 18, 2019, the governor pardoned four more people, including three whom he hoped to spare from deportation: Victor Ayala, Arnou Aghamalian and Thear Sam.

Ayala, a 38-year-old brought illegally from El Salvador at age 2 by his parents, had been sentenced to probation in 2001 at age 19, once for taking a man's backpack and wallet and the second time for abetting a carjacker's attempt to escape police.

The fourth pardon went to Curtis Reynolds, 59. Convicted of six drug felonies between 1998 and 2003, he had since dedicated himself to volunteering to help to others battling addiction.

**Major Outbreak of Legionnaires’ at Coleman Women’s Work Camp**

*by Kevin Bliss*

The women’s work camp at Coleman Federal Correctional Complex in Sumter County, Florida, reported 18 confirmed cases of Legionnaires’ disease in early February of this year.

The Bureau of Prisons (BOP) said it was working with the Department of Health (DOH) to identify the source of the infection, manage current cases and take necessary precautions.

*The Miami Herald* said officials at the prison would not answer questions about the outbreak, but prisoners and their families said the facility had a lot of people complaining about flu-like symptoms. “Apparently a large number of women have tested positive for Legionnaires’ disease,” wrote Paul Forkner’s daughter, who is incarcerated at Coleman. She said that many prisoners were not even being treated or were being diagnosed with a common cold.

The U.S. Centers for Disease Control and Protection said Legionnaires’ disease is a lung infection acquired from breathing water vapor contaminated with Legionella bacteria. It can cause flu-like symptoms such as coughing, aching muscles and headaches. It is the leading cause of waterborne-disease outbreaks in the United States and can be fatal if not treated.

The National Academies of Sciences, Engineering and Medicine said the bacteria grow rapidly in warm, stagnant conditions and can commonly be found in engineered water systems such as cooling towers or building plumbing. Toxicologist Dr. David Krause stated, “The [DOH] should be able to look at the epidemiological data and tell if it’s associated with a single water heater source or whether it’s a cooling tower outside the building that’s affecting the whole prison.”

Forkner’s daughter said the entire institution is in disrepair. She stated that much of the ceiling tiles were gone, exposing the building’s pipe system. Warm, stagnant water conditions existed everywhere in the prison. She was concerned that a large number of prisoners had been diagnosed with the infection, but no one in authority would answer any questions.

She also accused the BOP of lying to families of prisoners, telling them that the prisoners were receiving bottled water when they were not; if they wanted clean water, they had to purchase it from the canteen. For the time being the facility was not receiving any new arrivals, but routing them to other prisons in the state.

In a statement released February 4, the BOP said it had installed two recirculating pumps and point-of-use filters for the shower heads and sink faucets. But the BOP had yet to isolate the source. Krause said the BOP does not likely have the expertise to investigate the outbreak without turning to a consulting firm for assistance. More importantly, it seemingly does not have the will or the interest of safeguarding the prisoners in its care and the employees on its staff.

Sources: miamiherald.com, news4jax.com, tampabay.com

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**California Exonerees Not Quite Innocent Under the Law**

*by Anthony W. Accurso*

Many prisoners who get their convictions overturned, especially after serving lengthy prison terms, rightly expect to be compensated when they prove they never should have been prosecuted. However, exonerees in California often face a difficult battle for compensation, made all the more challenging by homelessness.

Glenn Payne is one of many persons whose conviction was overturned after serving prison time for a crime he didn’t commit. Payne spent 13 years in prison for a 1991 child molestation conviction that was overturned because the hair identification evidence linking him to the crime was discredited. At age 55, he’s regaining peace of mind as a free man who no longer has to register as a sex offender.

The state of California has laws in place to govern claims for compensation for those subjected to wrongful convictions. Payne doesn’t qualify, though, because his lawyers did not submit evidence that he was innocent of the crime by the end of the two-year filing deadline. Such a hurdle can be nearly impossible to overcome, especially in cases like Payne’s where the evidence was destroyed prior to his release.

Of the 76 former prisoners who have filed for compensation since 2006, the California Victim Compensation Board (CalVVCB) has approved 26 petitions for a total of $14.1 million. This is based on a statutorily authorized amount of $140 per day for wrongful incarceration.

After years behind bars, many exonerees face serious challenges reintegrating into society while struggling to find employment and meet basic needs. “Such a large sum of money for someone like Glenn in the difference between adequate food, healthcare, and shelter, and homelessness,” said Linda Starr, a Santa Clara University law professor and executive director of the Northern California Innocence Project.

In some cases, the court recognizes its error and certifies a person as “factually innocent” under Penal Code 851.8. Such was the case with Craig Richard Coley, who was authorized compensation totaling nearly $2 million after serving over 38 years in prison on what the Ventura County District Attorney described in court filings as an “extraordinary miscarriage of justice.”

A 2013 investigation ordered by the governor found “that the detective who originally investigated the matter mishandled the investigation or framed Mr. Coley.” Coley was unique because the court’s finding of factual innocence bound CalVVCB to compensate him, according to P.C. 851.865 and 1485.55.

Most exonerees aren’t so lucky. Maurice Caldwell served roughly 20 years on a second-degree murder conviction that was overturned in 2011. “Some people try to say just be thankful you [are] free,” said Caldwell. “I didn’t get away with a crime, so why [do] I just want to be thankful for being free? I’m going to be thankful when I get the justice of me being free, my actual innocence, the compensation, the truth.” Caldwell has spent the last eight
years unsuccessfully fighting the state for compensation.

Obie Anthony was freed in 2011 and used his compensation to start a foundation to help exonerees. As of May 2019, the foundation was paying for Caldwell’s hotel, giving him a place to stay while he fights the state. Anthony said such exonerees are stuck in a gray zone between the presumption of innocence accorded to those not yet convicted, and a presumption of guilt they must overcome after having their convictions reversed.

Paula Mitchell of Loyola Law School’s Project for the Innocent said, “It’s not fair to leave these people in legal limbo, living in this nether region between guilt and innocence. Quite simply, if the conviction has been overturned and the prosecution cannot retry the person, they should be entitled to compensation.”

Sources: latimes.com, sfchronicle.com, WTVR.com, https://victims.ca.gov

Sixth Circuit Holds Ohio Rule Requiring Merit Affidavit Inapplicable in BOP Prisoner’s Tort Action

by Matt Clarke

On November 7, 2019, the Sixth Circuit Court of Appeals held that an Ohio rule requiring a person alleging medical negligence to include a medical professional’s affidavit stating the claim has merit cannot be applied to a federal prisoner’s legal action against the federal Bureau of Prisons (BOP) under the Federal Tort Claims Act (FTCA).

While incarcerated at a BOP prison in Ohio, Dennis Gallivan had surgery. It did not go well, and he filed a lawsuit in federal court under the FTCA claiming medical negligence. He did not include a medical professional’s affidavit — a so-called merit affidavit — stating that the claim had merit. Citing Ohio Civil Rule 10(D)(2), which requires a merit affidavit, the district court dismissed the case.

Aided by Washington, D.C., attorneys William T. Marks, Melina M, Meneguin Layerenza, and Aaron J, Marks, Gallivan appealed. The Sixth Circuit noted that, if the Federal Rules of Civil Procedure do not require such a merit affidavit and those rules are valid under the Constitution and Rules Enabling Act, then federal rules, not Ohio Rule 10(D)(2), must be applied.

The Federal Rules do not require an affidavit to state a medical negligence claim. Rule 8(a) sets out the pleading requirements, which only include a short and plain jurisdictional statement, a short and plain statement of the claim, and an explanation of the relief sought. “By listing these elements, Rule 8 implicitly ‘excludes other requirements that must be satisfied for a complaint to state a claim for relief.’” Likewise, Rule 12 requires only an allegation of facts “sufficient to state a claim to relief that is plausible on its face.” The few instances when heightened pleading is required are listed in Rule 9, but medical negligence is not among them.

The Federal rules are presumptively valid under the Constitution and Rules Enabling Act. There is no challenge to their validity in this case.

In Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co., 559 U.S. 393 (2010), the U.S. Supreme Court held that the key issue when state and federal rules conflict is whether the federal rule answers the question in dispute. In this case it did, setting out precise pleading requirements. Therefore, the district court erred when it dismissed the complaint for failing to include the merits affidavit. The district court’s judgment was vacated and the case remanded for further proceedings. See: Gallivan v. United States, 943 F.3d 214 (6th Cir. 2019).
On October 11, 1982 Terry Allen was arrested and charged with sexual assault, after he allegedly forced a woman he’d just met at the McDonalds where she was employed to drive him in her car to a secluded spot and perform oral sex on him.

But in lieu of facing a criminal trial, he was offered civil commitment by prosecutors. Allen’s attorney told him if he underwent civil commitment “it would likely only last six months to a year.” Instead, Allen has remained in prison in Illinois for 36 years without a criminal conviction, or a release date specified, and — as of publication time — he is still incarcerated.

In their efforts to have him civilly committed, prosecutors hired two psychiatrists to determine if Allen met the criteria of being a “sexually dangerous person” (SDP). They then relied on what Allen told those doctors to move toward civil commitment instead of a criminal trial. Believing he needed to convince the psychiatrists that he was an SDP in order to avoid being locked up for a lengthy sentence, Allen told the psychiatrists that he’d forced a number of women to perform sex acts with him — something he now says wasn’t true.

“I incriminated myself,” said Allen. “I made incriminating statements that were never true about me. I didn’t feel that I was a sexually dangerous person.”

No police or court records existed that would have verified the truth of those long-ago statements he made, had anyone checked them out. In fact, one of the psychiatrists — who unfortunately is now deceased and therefore unable to testify — wrote in his report that he believed Allen was lying and merely telling doctors what they wanted to hear.

“[Allen] wanted to be found sexually dangerous,” the psychiatrist wrote, most likely because of his attorney’s advice and assurances.

Nevertheless, both psychiatrists deemed Allen unstable, exhibiting symptoms of psychosis or schizophrenia, and testified in his civil commitment hearing that the “sexually dangerous person” appellation was apropos in his case. Allen presented no defense at the hearing.

The John Howard Association, a non-partisan watchdog group, has suggested that many people who are designated SDPs have a low IQ, often paired with diagnosed intellectual or learning disabilities. A recent test, in fact, puts Allen on the borderline between low and extremely low IQ.

Speaking about his initial hearing, Allen said, “I think it was about two hours and the judge declared me to be a sexually dangerous person. And afterwards, I was told that I was going to be going to a hospital.”

He never saw a hospital, but instead was sent to an Illinois state prison.

“I talked to a psychologist there, she briefed me and told me that sexually dangerous people had been locked up like 20 and 30 years,” Allen said.

In Illinois, all SDPs are currently locked up at Big Muddy River Correctional Center (BMRC) in the small town of Ina, roughly 300 miles south of Chicago. Although they are housed in their own wing, they mix with the prison’s general population.

“Despite technically serving civil commitments and not criminal sentences, SDPs sleep in cells, wear the same outfits and badges as other inmates, and receive citations and punishments like criminally convicted felons,” said a spokesman for the Illinois Department of Corrections (IDOC).

State records show BMRC employs just “one or two staff psychiatrists for the entire population”—171 SDPs as of March 7, 2019. The IODC spokesman promised that the agency was “actively recruiting and hiring licensed sex offender treatment providers.”

Shortly after arriving in prison, Allen began researching alternatives.

“At that time, I constantly stayed in the law library so I could figure out what else I could do, what else I could file,” he said. “I wanted to do everything that I could to defend myself so that I wouldn’t die there.”

He filed an appeal, which — against all odds — eventually made its way to the Supreme Court of the United States, which heard his case on April 30, 1986. Ruling against Allen 5–4, the majority found that even though Illinois had detained Allen in jail without trial, the therapy it was offering him prevented his detention from being unconstitutional. That decision left the burden of proof on Allen to show that he was cured before his release would be possible. (Allen v. Illinois, 478 U.S. 364, 1986.)

To succeed in therapy, SDPs must express remorse, apologize, and demonstrate empathy for their victim or victims. Additionally, they must discuss how they will avoid committing such crimes in the future. Only 10 SDPs earned conditional release from BMRC between 2012 and 2019 — about the same number who died in custody. The average length of stay for all those committed to the program was 17 years.

About a quarter of their cases come from Sangamon County in central Illinois, where for 30 years the prosecutor was Sheryl Eisenberg. A self-taught expert on the state’s SDP statute, she wrote a manual on it for prosecutors in 2011. Now retired, she remains proud of putting away so many SDPs.

“If there is a legal way that I can prevent a person who is in my mind pretty clearly going to commit that next offense — if I can intervene before he commits that next offense with a high degree of certainty — then I’m gonna do that,” she said.

In addition to Illinois, Massachusetts, North Dakota and the federal government all have statutes allowing certain people with acknowledged sexually assaultive behavior to be held in prison without trial for treatment. In May 2019, following a number of news stories about Allen’s case, State Rep. Justin Slaughter, who chairs the House Judiciary Criminal Committee, called Illinois’ law “absolutely ridiculous” and pledged to back its repeal.

“It seems to fly in the face of justice,” agreed state Rep. Will Guzzardi, who is a member of the House Sentencing, Penalties and Criminal Procedure Subcommittee.

“People should not be in our correctional system that have not been convicted,” Slaughter said. “This is a law that should be taken off of the books.”

by Bill Barton

April 2020

Prison Legal News
Spokesperson Jordan Abudayyeh said that Gov. J.B. Pritzker “looks forward to reviewing any legislation that may be introduced.”

Over his long prison stay, Allen has filed a number of petitions for his release, and he has had at least a dozen hearings seeking to present his case before a jury. In 2015, a state psychiatrist at one of those hearings again said that Allen wasn’t fit to be released, but Allen’s attorney successfully argued for another psychiatrist to be appointed by the court to testify on his client’s behalf. That doctor called the state’s findings a biased and deceptive “hatchet job.”

University of Chicago clinical law professor Mark Heyrman says the career risk involved in an SDP release is an inherent disincentive for anyone to recommend one. “If I say ‘no you can’t get out,’ no one will ever complain,” Heyrman said. “If I say ‘yes,’ it’s almost certain that I will make a mistake.”

The jury in that 2015 hearing found Allen fit to be released. The problem? When SDPs are granted release, they are listed as sex offenders, who must follow the strict rules of the sex offender registry. With no way to secure the housing he needs, Allen remains at BMRCC.

“The state says that an SDP is to be responsible for his own placement. I don’t see how that could be,” Allen said. “If an SDP is locked up for 20 or 30 years he’s out of contact with the free world out there. He doesn’t have any relatives or funds out there to get his own place.”

Back in 1988, along with two dozen legislators, experts, and law enforcement officials, Heyrman led a governor’s commission that reviewed the Sexually Dangerous Persons Act. They recommended it be abolished.

“What sense does it make to have (IDOC) do this? Why aren’t (SDPs) in the custody of the Department of Human Services that runs our seven state mental hospitals?” Heyrman said.

Over 30 years later, Terry Allen still sits in a maximum security prison, waiting for an answer to that question.
They Went to Jail. Then They Say They Were Strapped to a Chair for Days.

Allegations in a Missouri lawsuit shed light on how some jail officials use restraint chairs, which have been linked to dozens of deaths.

by Maurice Chammah, The Marshall Project, published in partnership with the St. Louis Post-Dispatch

Shortly after Christmas in 2016, Albert Okal began acting strangely in the Wayne County Jail. He was “jumping around, seeing things,” his lawyer says. The 41-year-old was facing a charge of driving while intoxicated in southeastern Missouri.

Okal does not recall why he became so agitated, but his lawyer said Okal does remember how the jail staff responded: They cuffed his wrists and ankles to a “restraint chair,” where they force-fed him, covered his head with a blanket, addressed him with the n-word and refused to let him use the bathroom, leaving him to urinate and defecate on himself. He remembers being restrained for five days, his lawyer said.

Last fall, Okal sued Wayne County, the county sheriff Dean Finch, and a number of jail staff, claiming this experience left him with physical pain and emotional trauma, as the St. Louis Post-Dispatch previously reported. Wayne County jailers have denied placing Okal in the device.

Okal’s lawsuit is the latest keyhole into the use of restraint chairs within the nation’s jails. There are more than 3,000 jails around the country, and they are usually run by counties with little state or federal oversight, often far from civil rights lawyers, journalists and other informal watchdogs. Some states have tasked agencies or non-profits with inspecting jails. Under Missouri law, they should be checked every 15 minutes. Given a medical assessment, after which anyone strapped into the device “shall” be watched continually for two hours and then given medical attention, and Black says he was left alone for hours at a time.

Though most people survive short stints in the restraint chair, some have died from blood clots resulting from inactivity. In 1997, Michael Valent, a 29-year-old Utah prisoner with schizophrenia, died when a blood clot entered his lungs after he spent 16 hours in the device. His death prompted Utah lawmakers to ban its use. “It’s just like if you’re on an international flight: They don’t want you to sit for eight hours,” said Steve Yerger, a private consultant who has trained jail staff around the country on how to use restraint chairs safely. “There better be a damn good reason for keeping someone in a chair for more than five hours.”

The devices can also play a role in deaths from a variety of other causes. “People who are seen as a safety threat
Stacie Black has been arrested numerous times over the years, usually for drug possession; he admits that he was addicted to methamphetamine. Soon after one arrest, he was placed in the chair out of a concern that he would try again, but that as time went on he was simply told the sheriff would not let him out. He claims at one time they were told he could eat from a tray on his lap. At mealtimes, he'd get one hand uncuffed, so he could eat from a tray on his lap.

“He was mouthy to the employees he didn't respect,” recalled a former Wayne County jailer who asked not to be named, fearing reprisal. Although Black “wasn’t the ideal inmate,” he added, “he was in the chair for an uncomfortable duration.”

Black said he made the best of his situation: He was seated near the desk where new arrivals were booked, so he chatted with everyone he could. “I ain't never met a stranger,” he said. “It’s a small community, and I'm from there, so I know all the cops, all the jailers.” On Sundays, a local man would come to the Wayne County jail and tell jokes and sing country songs on a karaoke system. Sometimes he wore an Elvis costume. Black said he would serenade him directly.

At night, the foot traffic made it impossible to sleep, especially combined with his upright position. On one occasion, Black said, a friendly officer uncuffed his hands and let him sleep on the ground, with his feet still strapped in. At mealtimes, he'd get one hand uncuffed, so he could eat from a tray on his lap.

“Every time I'd go to see him,” recalled his mother Robin Trainer, “someone would pass by and say, ‘They’ve got him in that damn chair again!’” During their 15-minute visits, her son would tell her he sometimes had to beg in order to use the bathroom. As the weeks passed, Black found even the most simple tasks frustrating. “You sit there and you can't scratch your nose,” he said. “I'd try to turn and use my shoulder to scratch it.”

His friend Breanna Dyer, with whom he was arrested, could hear him from the other end of the jail: “I'd hear him screaming, ‘Get me out of this damn chair!’”

Sometimes Key, the warden, would sneak him Kool-Aid and coffee. She was held from June 2014 until March 2015, after violating her probation for an earlier theft charge, and she remembers Black asking her whether it was day or night, since he could not see a window. She would also pass messages to Amy Black, his wife, who was also held in the jail.

Black’s wife described being placed in the chair herself on at least a dozen occasions, while in and out of jail for probation violations and failures to pay child support. (She said she couldn’t afford to make payments because she was locked up for so long.) A lot of detainees are addicted to drugs, she said, “and they would let people have seizures and puke all over themselves.”

In other jails, people have died in the...
Restraint Chairs (cont.)

device from aspirating on their own vomit.

Many of those who corroborated Black’s account in interviews with The Marshall Project also said the chair was used frequently on people who didn’t pose an imminent physical threat. “They couldn’t handle peoples’ mouthing. If you cussed one time they’d put you in the chair,” said Monica Harris, who served time for failing to appear in court after an arrest for driving without a license.

Black said he does not know why the sheriff’s staff finally let him out of the chair after 28 days. He did not attempt suicide again and was released in early 2015 when his charges were dismissed. Later that year, he was arrested again for drug possession and was convicted and sent to prison, where he remains.

After the five days Albert Okal says he spent in the chair, others held at the jail said the staff used a wheelchair to get him to a cellblock, where they told a group of detainees to clean him up. “He was soaked in his own urine and feces,” Jeremy Sykes, who was facing assault charges at the time, wrote in a message from state prison.

Detainees helped Okal shower and gave him a bunk and clothes, Sykes said. For several days the group fed him and gave him water until he could walk on his own, with no help from staff. “They did the best they could to take great care of Albert,” he said.

Okal’s lawyer, Steve Walsh, declined to make him available for an interview due to the pending litigation. Walsh said that lawsuits like Okal’s—and the threat of future lawsuits—often force jails to change their practices. “It could be a condition of settlement to do something about this chair,” he said. “Maybe dismantle it and put it in the junk pile.”

Christie Thompson contributed reporting.

About the author: Maurice Chammah is a staff writer whose forthcoming book about the death penalty won the 2019 J. Anthony Lukas Work-In-Progress Book Award. A former Fullbright and H.F. Guggenheim fellow, he has reported on a range of criminal justice subjects, including wrongful convictions, jail architecture, predictive policing and European criminal justice systems.

### $110,000 Settlement for Outed Wisconsin Prisoner Informant

**Regular readers of Prison Legal News may remember the April 2019 article (page 61) chronicling the story of Wisconsin prison guard Sergeant Robert Wilcox. Wilcox placed images of a rat, signifying an informant, next to the names of five prisoners working for a gang intelligence investigator, Captain Jason Wilke. Wilcox left the altered roster in a desk, where it was viewed and copied by other prisoners at the Redgranite Correctional Institute (RCI).

The informants’ lives were allegedly endangered and Captain Wilke and his family began receiving threats as well. The prisoners were transferred to other prisons for their safety. Wilke reported the threats to law enforcement since prison administrative personnel, in violation of policy, refused to do so. He eventually took early medical retirement, fearing retaliation by prison officials for having sought law enforcement protection.

Wilcox, a member of the Redgranite Governing Board (city council), was suspended for a day. He subsequently quit his job at the RCI.

Prisoner Joseph Benson, one of the informants outed by Wilcox, filed for relief in a federal court under 42 U.S.C., § 1983 in a *pro se* filing. Attorney Ben H. Elson of Chicago’s People’s Law Office stepped in and helped obtain an $110,000 settlement for Benson in July. Another part of the settlement provides for Benson’s assignment to a prison unit where his safety could presumably be better assured.

Court pleadings and other official documents relating to prison conditions are always welcomed by [P.L.N. See: Benson v. Meisner, U.S.D.C. (E.D. WI), Case No. 2:18-cv-00538.](http://www.wbay.com)

Additional source: wbay.com

### Muslim Georgia Prisoner Wins RLUIPA Reversal in 11th Circuit

**The Eleventh Circuit Court of Appeals, in an unpublished opinion, reversed the dismissal of a Georgia prisoner’s First and Eighth Amendment damage claims that alleged he was denied a vegan diet that conformed to his Muslim religious beliefs.**

While held at Valdosta State Prison (VSP) in 2015, prisoner Marquise Ali Robbins, filed a civil rights action asserting claims under the Religious Land Use and Institutionalized Persons Act (RLUIPA) and the First and Eighth Amendments. Robbins alleged that he opted to receive VSP’s “restricted vegan meal,” which is intended to be consistent with the dictates of Islamic dietary rules.

Robbins asserted his diet contained insufficient “nutritional value,” “lacked sufficient calories” and contained only half the nutritional value as provided other prisoners. The district court granted the defendants’ motion to dismiss the complaint, finding Robbins failed to state a claim upon which relief could be granted.

On appeal, it was noted that Robbins was transferred from VSP to Hays State Prison. The Eleventh Circuit found this mooted all injunctive relief claims, so it affirmed dismissal of the claims under RLUIPA and the First and Eighth Amendment that sought such relief.

The court, however, found the First and Eighth Amendment damage claims were improperly dismissed. While the dis-
Oregon citizen Tina Ferri began serving a 70-month sentence for felony assault and methamphetamine possession at the Oregon Department of Corrections’ (ODC) Coffee Creek Correctional Facility (CCCF) for women in October of 2017.

In March of the following year, an Oregon appeal court reversed her assault conviction, but by then Ferri had died of flu. She was 53-years-old and had entered the ODC without significant health problems.

Ferri caught the flu shortly after entering the CCCF. That outbreak was particularly virulent. As the infirmary filled to capacity, newly infected patients were quarantined to their assigned cells. Their cellmates were not moved if they were not infected, needlessly exposing others and compounding the contagion problem.

Even more egregious was the ODC’s and CCCF’s near total lack of overall preventative measures to guard against a flu outbreak. For the 2017 flu season, ODC purchased 4,650 vaccines for its 14,550-prisoner population. Only 4,550 prisoners requested a vaccination, which meant that only 31.27 percent of Oregon’s prison population were inoculated against the flu for that year.

The situation was even more dismal at the CCCF, where 519 vaccines were purchased for 1,645 prisoners. Only 300 prisoners requested a vaccination, 18.23 percent of the prison’s population, were inoculated against the flu that year.

According to medical experts, the prisoners had no defense against the virus as it spread to one person after another housed in close proximity. Oregon Health Authority’s Dr. Ann Thomas stated that “any influenza vaccination rate lower than 70 percent will still allow the flu to spread in a community—and with a less effective vaccine, like [that] year’s shot, the vaccination rate may still need to be even higher.”

Yet another major problem identified is the ODC’s vaccination policy. To obtain a flu vaccination, a prisoner must ask for it either in writing or by checking off a box on a preprinted infirmary services request.

ODC spokesperson Jennifer Black initially stated that flu vaccinations were discussed in one of the CCCF’s monthly newsletters during 2017. A review of all these newsletters by a Willamette Week reporter found no such mention. When asked about that, Black responded, “I do believe it was an oversight.”

The prison is now considering a policy of actively offering a yearly flu vaccination to all prisoners and allowing them to refuse as their chosen option.

As for Tina Ferri, her bout with the flu became so bad she contracted an internal staph infection. She was finally transferred to a hospital two weeks after she told authorities she was ill and three days after she began coughing up blood. She died on January 15, 2018, shackled to her hospital bed.

Ferri’s family filed a civil rights and wrongful death lawsuit against the ODC in December 2018. Michael Fuller, the attorney representing the family, asked for $7.5 million.

In July 2019, an out of court settlement was reached in the amount of $70,000. See Estate of Tina Ferri v. Oregon Department of Corrections. Circuit Court, Washington County. Case No. 18-cv-55966.

While the current coverage on the Corona virus pandemic somehow implies that prisoners being at risk of dying from the flu is a new or novel risk, this case clearly shows it is neither new nor unforeseen.

Sources: oregonlive.com, wweek.com
$1.5 Million Settlement in Georgia Youth's Rape at Juvenile Detention Center

**by David M. Reutter**

The Georgia Department of Juvenile Justice (DJJ) agreed to a $1.5 million settlement in a lawsuit alleging a 14-year-old was the target of several beatings and attacks and was raped in a shower by a 17-year-old detainee.

The lawsuit identifies the victim as “N.T.” and relates to conditions of confinement he endured at Augusta Youth Development Campus (AYDC) in 2011. The complaint named 15 officials who worked for DJJ. AYDC is DJJ’s facility to house committed youths in its system and who have been identified with mental health problems.

DJJ was the subject of a U.S. Department of Justice report in 1998 that found systematic and pervasive violations of juveniles’ constitutional rights. Among the problems were staff shortages, staff use of excessive force, a culture of violence and sexual assault, and lack of mental health care. A Memorandum of Understanding required DJJ to make changes, and DJJ was removed from supervision in 2009 after it met its obligations. The complaint alleged that after the consent decree ended, “a pattern of pervasive system-wide abuses in DJJ facilities across the state returned.”

When N.T. entered AYDC on March 8, 2011, he had a history of psychiatric hospitalization in 2010 and was on psych drugs. Between March 27 and October 4, 2011, N.T. was assaulted or attacked by other detainees multiple times. N.T. reported the attacks to his therapist on November 2, 2011. Another detainee, Jade Holder, died after being attacked and brutally beaten by other youths six days later, after a guard left cell unit doors unlocked.

Despite that incident, supervision of the juveniles remained lax. N.T. was one of 13 youths taken to the gym on December 4, 2011. They were left unsupervised. When N.T. went to use the bathroom, detainee Devin Scott Ardoin sexually assaulted N.T., forcing him to submit to anal and oral sex.

N.T. reported the incident, and Ardoin was charged with a misdemeanor for the assault. N.T. was again physically assaulted on December 19, 2011. Subsequently, “N.T. repeatedly self-harmed and attempted suicide, including attempts to slit his wrists, to hang himself, and [to] drown himself in [the] toilet.”

“He had been attacked on multiple occasions and put in isolation — that’s what they do to kind of ‘protect’ them — but sexual assault is really what the settlement is about,” said Thomas “Woody” Sampson of Thomas Kennedy Sampson & Tompkins, one of N.T.’s attorneys. His co-counsels were Demetra Ford of Ford Law and Leighton Moore of the Moore Law Firm.


Additional source: lav.com

**Opioid Epidemic Keeps Climbing at California Prisons, and Claiming Lives of Released Prisoners as Well**

**by Jayson Hawkins**

With opioid overdoses claiming the lives of over 68,000 Americans annually, detention facilities have reported a corresponding rise in drug-related deaths among those incarcerated or recently released. (See *PLN*, September 2019, p. 1.) California’s nearly three dozen penal institutions recorded 997 overdoses in 2018, more than double the number just three years earlier. Forty prisoners died from overdoses in California in 2017, a rate three times the average nationwide.

Although cancer, heart disease and liver disease remain the top killers of California prisoners, overdoses have outpaced suicides and homicides since 2017 to claim the fourth spot. Meanwhile, a November 21, 2019 story in *Capital & Main* said that “Drug overdoses are the single greatest factor contributing to Los Angeles’ rising rate of homeless mortality,” and that many of those dying on the streets were recently released prisoners. “Released prisoners may get clean behind bars…but the medications prescribed in jail detox programs aren’t normally the kind to adequately wean them from their opioid cravings,” the story said. “With the resultant loss of tolerance, if they relapse on the outside one erroneously judged dose can kill them.”

The numbers of prison deaths have risen despite increases in funds to fight the influx of drugs into the state’s lockups. Under a 2018 plan spearheaded by former Gov. Jerry Brown, $13.8 million was spent in California Department of Corrections and Rehabilitation (CDCR) facilities on body scanners, urine tests, drug-snooping dogs and camera surveillance, yet these added security measures have made little impact.

The former finance chairman of the guards’ union, Joe Baumann, blamed loopholes in the process. The scanners do not detect drugs smuggled inside orifices, which he said visitors could remove in a bathroom and then pass to prisoners. Other smugglers filled tennis balls with contraband substances and threw them over the penitentiary fences. Although visits are limited to weekends, employees have access to prisoners at all times, and Baumann admitted that occasionally “dirty” guards had facilitated smuggling operations. Corrupt staff are the main conduits, in terms of sheer bulk, of drugs introduced into detention facilities yet they are subjected to fewer searches or countermeasures, which allows the problem to continue.

“There are so many opportunities, so much money to be made, I don’t think there’s one single answer,” agreed Jody Lewen, who established the Prison University Project to offer higher education at San Quentin State Prison. “As long as there are human beings going in and out, there are going to be opportunities.”

The National Institute on Drug Abuse estimates that two-thirds of the U.S.’s 2.3 million prisoners suffer an addiction to drugs or alcohol. But most of the country’s lockups — about 2,000 state and federal prisons and 3,100 county and municipal jails — do not provide any of the three drugs used in Medically Assisted Treatment (MAT),
despite approval from the federal Food and Drug Administration. Only 120 jails in 32 states as well as just 10 state prison systems offer even one of the three MAT medications: methadone, buprenorphine or Vivitrol.

While some politicians believe imprisonment forces addicts to abandon their drug use, addiction physician R. Corey Waller says that “prisons aren’t the sterile environment people think they are.”

“The pressures to use drugs inside are even greater than they are outside,” he added. “On the outside, you can escape pressures, go to your aunt’s house or something. But when you’re in a jail or prison, if you try to ignore the inmate in your yard who wants to sell you drugs, you’re at risk for physical harm.”

The problem continues at least two years after release, when former prisoners face a risk of death triple that of the general population. In just the first two weeks, the risk of a fatal overdose is 13 times higher.

That’s why Rhode Island Gov. Gina Raimondo led the state in 2016 to begin providing all three drugs for MAT to every one of its state prisoners with an opioid addiction. Along with addiction counseling, the one-of-a-kind, $2-million-a-year program – which includes follow-up treatment after a prisoner is released – has cut overdose deaths after release by two-thirds, from 26 to just nine in its first full year. Some critics question whether substituting one drug for another really solves the problem or merely prolongs it.

“Half my friends are in graveyards,” said 58-year-old former Rhode Island prisoner Lloyd Baker, “because when they got out of prison, they used what they did before they got in – and now they’re gone. I was one of the lucky ones.”

In May 2019, California Gov. Gavin Newsom introduced a plan to provide treatment at most of CDCR’s correctional facilities to prisoners struggling with addiction. With an estimated two-year cost of $233 million, the plan would be the nation’s largest.

“The value of this goes way beyond prisons,” emphasized Dr. Matt Willis, public health officer in Marin County, where San Quentin State Prison is located. “This will save lives and money.”

County emergency medical crews responded to four fatal overdoses of fentanyl on San Quentin’s Death Row between November 2017 and December 2018. The death of a fifth condemned prisoner in June 2019 was also attributed to a heroin overdose.

A rise in popularity of fentanyl – a synthetic opioid that can be 100 times more powerful than morphine – is a factor in California’s burgeoning prisoner overdoses. Because of its potency, an effective dose requires a very small amount of the drug, making it easier to smuggle. In April 2018, at least a dozen men at Mule Creek State Prison overdosed on fentanyl during a single weekend. One of them died.

Newsom’s plan, like the one in Rhode Island, includes substance abuse treatment for prisoners facing release to help them remain in recovery after they leave prison.

“The way to interrupt the cycle of addiction and crime that lands people in court over and over again is to treat the addiction,” Dr. Willis said. Another way is to decriminalize drugs and treat it as a public health problem the same way that smoking and alcoholism are treated.

Sources: sfchronicle.com, kqed.org/news, sacbee.com, latimes.com, postbulletin.com

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**The Habeas Citebook (2nd edition)**

by Brandon Sample and Alissa Hull

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### Are Prison Law Libraries Adequate?

**by Dale Chappell**

If you've ever had to rely on a prison law library to research for a court filing, you know just how sorely lacking they can be. And that’s if you were even able to access the law library. Many states do not provide law libraries for prisoners.

Over 40 years ago, the U.S. Supreme Court held in * Bounds v. Smith*, 430 U.S. 813 (1977), that “the fundamental constitutional right of access to the courts requires prison authorities to assist inmates in the presentation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law.”

But what is an “adequate” law library? This has never been defined by the Supreme Court, and no clear standard says what a prison must provide in its law library to meet the mandate of *Bounds*. The defendants in * Bounds* never provided North Carolina prisoners with law libraries.

Nearly every prison has its own idea of what an adequate law library means, and nearly every one of them has tossed books and gone digital (except Oklahoma). But what’s on the computers may not be what the public has access to. Instead, prison administrators' contract with providers, like LexisNexis, to tailor the cases and materials available to prisoners, said Kevin Taylor, an account manager for LexisNexis.

Is this legal? Can prisons block access to cases and materials on prison law library computers? “There really is [not] a bright line in the sand in what you have to have and what would be nice to have,” says Taylor when asked about what’s required to be on the law library computers.

“It’s certainly not a level playing field,” said David Shapiro, director of the MacArthur Justice Center at Northwestern University. “What’s available digitally doesn’t mean everything that was available in print. Often it’s a real narrowing of what’s available” in print.

And * Bounds* doesn’t mean unlimited access to the law library. Courts have routinely upheld restrictions on access to law libraries for a variety of reasons. In some prisons, a request must be submitted two weeks ahead of time to get just a few hours in the law library. And some prisons don’t even provide a law library but instead a “trained” person (not necessarily a lawyer) to help prisoners file papers in court.

Even if a prison improperly restricts a prisoner’s access to the law library or provides an inadequate law library, the prisoner faces an almost impossible task of showing that his constitutional right to access the courts was violated.

In * Lewis v. Casey*, 518 U.S. 343 (1996), the Supreme Court severely limited * Bounds*, requiring that a prisoner must show “actual injury” from being denied access to the courts because of a law library problem. Most courts say this means the prisoner must prove that his claim would have been meritorious had it been filed and not been dismissed by the court because of denial of access to the law library or an inadequate law library. After * Lewis* was decided a number of states including Arizona, Georgia, South Dakota and others simply closed their prison law libraries. Ironically, North Carolina, the state where * Bounds* arose from never did provide law libraries to their prisoners.

This is a “paradox,” experts say, because in order to file a meritorious claim in court, a prisoner needs access to an adequate law library to research and argue his claim. And while courts are supposed to give pro

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### $1.25 Million Jury Award to Rikers Prisoner Over Jail Beating

**by Ed Lyon**

In January 2018, Jose Guadalupe settled a lawsuit for a total of $1,250,000 for a “severe beating” he suffered at the hands of jailers in the city’s notorious Rikers Island complex. He would eventually net a bit less than half of that amount after paying attorney’s fees and settling claims filed against him by the four people he was accused of robbing, which was the reason for him being incarcerated at Rikers Island to begin with.

New York state passed the earliest Son of Sam Law (SOSL) after David Berkowitz, aka the Son of Sam, was arrested in 1977 for a spree of random killings. The law was intended to prevent convicted prisoners from reaping a profit by barring them from selling book or movie rights about their crimes.


However, New York and other states subsequently passed new versions of the SOSL to get around the Supreme Court decision. New York’s, passed in 2001, bars a convicted person from receiving more than $10,000 from almost any source of income. It also requires that victims of a convicted person’s crimes are notified whenever the convict is set to receive any money above that threshold.

When Guadalupe won the award, the four robbery victims were notified. The New York State Office of Victim Services (OVS) filed suit on behalf of the robbery victims, naming the state’s Comptroller as “garnishee in possession” of Guadalupe’s award.

The OVS then obtained an order to hold the award, minus payment of attorney and legal fees in the amount of $526,092.44. The four victims claimed $50,000 each for their trauma.

Guadalupe did not dispute the amount, so in November of 2018 the Court ordered a $200,000 reduction in the remaining award to be paid out in a $50,000.00 check to each of Guadalupe’s robbery victims by the state Comptroller.


Additional source: nypost.com
se prisoner filings some leeway, they’re too quick to clear their dockets of these cases. “The basic thing is that most judges regard these people as kind of trash not worth the time of a federal judge,” Judge Richard Posner of the U.S. Court of Appeals for the Seventh Circuit told The New York Times after he announced his retirement from the bench in 2017. The result is that only one prisoner, at the district court level, has won a court access claim since Lewis was decided in 1996, none at the appellate level.

Another judge has also advocated for better access to the courts by prisoners, saying that prisoner filings serve as a “check” on the dysfunction and abuse in the nation’s prisons. “An awful lot of legitimate grievances go unresolved because of the difficulty in accessing the courts and that’s really a tragedy for our society,” says Donna Leone Hamm, a retired Arizona judge who now runs a nonprofit called Middle Ground Prison Reform.

Georgetown Law School has also opened its library’s doors to help prisoners. In just five months after changing its

**PrimeCare Medical Pays Bulk of $252,000 Settlement in Pennsylvania Jail Detainee’s Suicide**

*by David M. Reutter*

A $252,000 settlement was reached in October 2019 in a lawsuit brought by the estate of a pretrial detainee who hanged himself at Pennsylvania’s Northampton County Prison (NCP).

Kyle A. Flyte, 21, was booked into NCP on March 5, 2017 and was placed on “Level II Suicide Watch” the next day. He was evaluated by PrimeCare Medical psychiatrist Kishor Kumar Dedania on March 7. Dedania released Flyte from suicide watch and he was moved to a disciplinary confinement cell.

The complaint alleged the disciplinary action was based on Flyte not being honest about his drug use prior to entering NCP. While Flyte said he had not used drugs, a drug test for opioids returned a positive result. Consideration of the effect of isolation on someone with suicidal tendencies was not considered, nor were the change in circumstances concerning Flyte’s possibilities for bail.

On the morning of March 8, Flyte violated rules by hanging a blanket across the bars of his cell. He then used a shoelace and hanged himself between the half-hour guard rounds. No one investigated why a blanket was hung across the bars until a guard made rounds at 10:26 a.m.

Flyte was taken to a hospital where he died on March 13 as a proximate result of injuries from the hanging. His estate, represented by attorney John Vivian, Jr., sued the County of Northampton, its medical vendor PrimeCare Medical, and Dedania in February 2019.

The $252,000 settlement was reached on October 11. PrimeCare paid $190,000 and Northampton County paid $62,000. Vivian received $101,000 in attorney fees and $8,553 in costs. Flyte’s two sons each received $47,000 to purchase an annuity. Flyte’s father was awarded $10,000, and $8,326 went to funeral expenses and a monument. Estate attorney Bradford D. Wagner was awarded $5,000. See: *Flyte v. County of Northampton, U.S.D.C. (E.D. Pa.)* Case no. 5:19-cv-00703. [LEARN TO PROTECT YOUR RIGHTS]

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Seventh Circuit Appeals Court Upholds Ruling Against Wisconsin Prisoner’s Medical Negligence Claim

by Kevin Bliss

A seventh Circuit Court of Appeals ruled on October 29, 2019 that there was a rational basis for the jury to determine that nurse Angela McLean and guard Joseph Cichanowicz did not violate prisoner James Lewis’ constitutional rights by delaying medical assistance, and that the United States District Court for the Western District of Wisconsin did not err in its ruling against Lewis.

Lewis filed suit for deliberate indifference and medical malpractice against the defendants in 2014. He claimed that on the morning of February 8 of that year he awoke with paralyzing pain. After much time sitting in his bunk, unable to move, Lewis finally hit the call button for assistance.

Cichanowicz and McLean came but refused to help Lewis because he would not stick his hands out the trap door to be cuffed for transport. It was not until an hour and a half later when Lewis fell to the floor trying to get to the door that help was sent to take him to the hospital.

Lewis’ original medical malpractice claim was dismissed, and the defendants were granted summary judgment. Lewis appealed and was granted a rehearing with an appointment of counsel. He also was given the opportunity to bring up his malpractice claim if he wished. He did so, but on a pro se motion, which the court told him he could not do while he had counsel appointed. His counsel later withdrew this motion.

Cichanowicz and McLean both testified that they did not consider Lewis’ inability to move a medical emergency. He had a clear airway, was talking and breathing, and he was not paralyzed since he could move his extremities. Also, since he was able to reach the call button he should have been able to reach the trap door to be cuffed.

Cichanowicz said he had to consider the possibility that Lewis would later voluntarily be cuffed or that he had created a “setup” for the guards. Hence, he chose to wait to see what Lewis would do.

The jury was instructed to assume that Lewis could not move between 5:15 a.m., the time he awoke and sat up in bed, to 7:12 a.m., when he was first able to reach the call button for help.

The tape recording of his cell during this period was not preserved due to spoliation. Nonetheless, the jury ruled in favor of the defendants.

Lewis filed a pro se motion to set aside this verdict, claiming the court erred in denying his motion to represent himself, not allowing him to conduct McLean’s cross-examination, and not determining that the manifest weight of the evidence did not support the verdict.

The Appeals Court held that denying a pro se motion because the movant had counsel and refusing to allow a movant to represent themselves were separate issues. Lewis never made it clear to the courts that he wished to represent himself or personally conduct cross-examination. The Court said that Cichanowicz and McLean testified to their professional judgment, which precluded the possibility of deliberate indifference. The district court’s ruling was affirmed and the case was dismissed. See: Lewis v. McLean, 941 F.3d 886 (7th Cir. 2019).

Arizona Prison Water Woes Ease Up

by Jayson Hawkins

The water at Douglas Prison, which has over 2,000 of Arizona’s prisoners, had a “noticeable petroleum odor and taste” and “was burning [prisoners’] skin after showers and causing diarrhea” in June 2019, Jimmy Jenkins of KJZZ-FM reported.

The problem arose after the facility switched to a different well following a leak that caused a water outage earlier in the month. That outage lasted several days, during which prisoners and staff survived on bottled water and used chemical toilets.

Toxic drinking water in major cities, and jails, like Flint, Michigan, and Newark, New Jersey, has made headlines in recent years and undermined trust in authorities who assured the public that no problems existed. For marginalized populations like prisoners, the slow reactions and outright denials of officials can extend crises for years and compound other issues.

Residents of the Wallace Pack Unit in Texas, the majority of whom are aged and have health problems, were told to drink up to two gallons of water a day to cope with excessive summer heat, yet a 2017 report revealed the water there contained over four times the level of arsenic allowed by the EPA. A federal judge responded to an emergency motion in 2016 by ordering the Texas Department of Criminal Justice to ship clean water to the unit, but by that point the prisoners had already consumed “thousands of gallons of the arsenic-tainted water for more than ten years.”

Prisoners at Douglas faced a similar lose-lose situation as early-summer temperatures neared 100 degrees. During the initial outage, Arizona Department of Corrections spokesman Andrew Wilder assured the public that over 20,000 bottles of water had been handed out over a three-day period; however, word came through prisoners’ families that the bottles were primarily distributed to guards. Prisoners were left to drink lukewarm that had been trucked in in large containers.

“Inmates have been cooperative and in good spirits, and without incident,” said Wilder, not commenting on reports from families of the incarcerated about conditions inside the facility.

Margaret White, whose son is serving time at Douglas, said prisoners had not had water available for almost two days after the initial outage. Hundreds of people had to use one chemical toilet that was soon overflowing with sewage.

In an effort to restore water to the facility, the Arizona Department of Environmental Quality said that samples from the reserve well had tested negative for coliform bacteria before Douglas was switched over to it. The presence of other contaminants had not been verified prior to the switch, but the brownish color and distinct taste of diesel fuel were clear indications that water from the back-up source was not fit for consumption.

By the time the storage tank had been drained and the water lines flushed, the
leaking pipe connected to the original well had been repaired and water to the facility was restored from its usual source. “Since then,” Wilder noted, “water has again been running clear and odor free at all units with no additional issues.”

PLN has reported extensively on the issue of water contamination in prisons and jails and has found that polluted water was one of the top toxicity issues inside prisons.

Sources: kjzz.org, theappeal.org

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**Precedential Settlement Eliminates Solitary Confinement on Pennsylvania’s Death Row**

_by David M. Reutter_

The Pennsylvania Department of Corrections (PDOC) has agreed to operate a Capital Case Unit (CCU) “as a general population unit that exclusively houses prisoners sentenced to death.” That change in conditions is part of a settlement agreement to a lawsuit that challenged death row prisoners’ conditions of confinement.

The agreement was announced on November 18, 2019. It resolves a lawsuit brought by the ACLU in January 2018, which alleged violations of the Eighth and Fourteenth Amendments from placing death row prisoners in solitary confinement for years or decades on end.

“The use of long-term solitary confinement on anyone is torture,” said Amy Fettig, deputy director of the ACLU’s National Prison Project. “The conditions Pennsylvania’s DOC was subjecting people on death row to — spending their entire lives in a tiny, filthy cell without any normal human contact, congregate religious services, sufficient access to exercise, sunshine, the outdoors, or environmental and intellectual stimulation — weren’t just deeply unconstitutional; they were horribly inhumane.”

Under the settlement, death row prisoners will be able to use the phone on a daily basis for 15 minutes, have contact visits, have at least 42.5 hours of out-of-cell activity a week — to include congregate meals and services, law library time, work assignments, and indoor and outdoor time — and they will not be subject to strip searches or physical restraints unless required by emerging security issues.

Prisoners will also be allowed to purchase property available to the general population, and the frosted-over cell windows will be replaced with transparent windows.

The agreement provides for attorney fees and costs to class action attorneys as determined by the district court, as well as fees for the monitoring stage of the agreement. The settlement was hailed as a monumental achievement in the fight against solitary confinement.

“Despite decades spent in inhumane isolation, our clients have organized and persevered in this historic achievement for the move went to abolish solitary confinement in Pennsylvania,” said Bret Grote, legal director of the Abolitionist Law Center. “They have set a powerful precedent for ending solitary confinement of capital case prisoners — and eventually the death penalty as a whole — across the country. We are proud to represent them.” See: Reid v. Wetzel, USDC, M.D. Pennsylvania, Case No. 18-CV-0176.

Additional sources: CNN.com, inquirer.com, aclupa.org

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Pennsylvania Board Revokes Psychologist’s License Over Prisoner Suicides

by David M. Reutter

The Pennsylvania Board of Psychology revoked the license of psychologist James Harrington and imposed $62,233 in civil penalties and costs. The revocation was based on seven suicides over an 18 month period at SCI Cresson, which has closed since the deaths nearly a decade ago.

The December 3, 2019, order said three suicides and 17 others who attempted suicide while under Harrington’s care were foreseeable and preventable. The order found Harrington abdicated his ethical responsibility to intervene when mentally ill prisoners were placed in solitary confinement and prevented from leaving their cells for treatment.

The board’s order focused on Harrington’s role as the top psychologist responsible for treating the prisoners. It noted his “treatment” of prisoners that included allowing a prisoner with schizophrenia to attend a mental health meeting naked and ordering the prisoner to sing, “I’m a Little Tea Pot.”

Harrington also approved a behavior modification plan for the prisoner that placed the prisoner in isolation with only an anti-suicide smock and food loaf while removing all bedding, including a mattress, and not providing psychological treatment.

The order also outlined the case of prisoner John McClellan, Jr., who threatened to hang himself and who broke his hand hitting a wall just weeks after arriving at Cresson. Despite those acts, McClellan was not assessed or treated by the psychological department.

Then, on May 6, 2011, McClellan’s mood changed, and that night he hung a cover over his cell window and committed suicide. The Board found his death was “both definitely foreseeable and preventable.”

As PLN reported (See PLN, March 2013, p. 18.), the deaths sparked an investigation by the Department of Justice. That report found mentally ill prisoners’ constitutional rights were violated by the policy of placing them in solitary confinement. The report led to policy changes that include diverting prisoners with mental illness to specialized psychiatric units. The head of Pennsylvania’s prison system defended Harrington at a Board hearing in 2018. “Mr. Harrington was one of our strongest licensed psychologist managers,” said Secretary John Wetzel. He promoted Harrington to oversee psychology staff at several prisons, with pay of $107,052 annually.

Harrington described himself as “a caring administrator who carried out his professional deputes and responsibilities in a professional manner consistent with policies of the Department of Corrections at SCI Cresson.”

He was still employed by the prison system when the Board issued its order revoking Harrington’s license. The order was a consoling, minor victory for victims that did nothing to change their loss. “It seems like you can do what you want and get away with it,” said John McClellan, Sr., who described his son’s prison experience as “torment” that was made worse by staff who encouraged his suicide.

Source: inquirer.com

GEO Group, Largest Private Prison Contractor, Cranks Up Political Contributions During Trump Years

by Michael Fortino, Ph.D.

In August 2016, just after an Obama administration decision to stop contracting with for-profit private prisons sent its stock price tumbling, GEO Group, Inc., the country’s largest private prison contractor, donated $100,000 to a super PAC aligned with then-presidential candidate Donald J. Trump.

Through a wholly owned subsidiary called GEO Corrections Holdings, Florida-based GEO Group, Inc.—whose $2.33 billion in 2018 revenues would have been threatened had Hillary Clinton won and continued Obama’s policy—then gave another $125,000 a week before the election to the Trump-aligned super PAC, known as “Rebuilding America Now” and chaired by Florida’s then-governor and current senator, Rick Scott. When Trump won, GEO Group stock quickly rose 21%, and it gave an additional $250,000 to his inauguration committee.

In February 2017, a month after Trump’s inauguration, then-Attorney General Jeff Sessions announced he was rescinding the Obama policy and expanding federal use of private prison contractors instead. Two months later, the administration awarded a $110 million, 10-year federal contract to GEO Group for construction and operation of a 1,000-bed facility in Texas to house undocumented detainees for Immigration and Customs Enforcement (ICE), the $10 billion federal agency primarily tasked with implementing Trump’s immigration policy of detaining and removing undocumented immigrants.

Since then, GEO Group has grown to become ICE’s largest vendor, holding contracts worth $471 million in total. Meanwhile, GEO Group and its subsidiaries have given $550,000 to the Republican Senate Leadership Fund, $325,000 to the GOP’s Congressional Leadership Fund, as well as $275,000 to the New Republican PAC, which supported Scott through his successful 2018 Senate campaign in Florida.

The nonprofit Campaign Legal Center filed a complaint in 2017 with the Federal Election Commission (FEC), alleging GEO Group violated 75-year-old federal law prohibiting federal contractors from making political donations in order to influence federal law and policy in their favor.

“You can’t let contractors get away with what is illegal for the parent corporation to do,” argues Craig Holman, an ethics advocate at Public Citizen. “Otherwise you just essentially throw out the law.”

CLC attorney Brendan Fisher agreed, “A contractor can’t dodge the ban by making a contribution through a wholly-owned subsidiary.”

CLC modeled its complaint on an earlier one it had filed against a Boston-based
construction company and government contractor that donated $200,000 in 2015 to a pro-Hillary Clinton Super PAC. That company was cited by FEC for violating the ban on “pay-to-play” donations and fined $34,000 to settle the case.

But the FEC didn’t act on CLC’s complaint. So, in January 2018, CLC sued FEC. That suit is still pending, but Fischer says that even if a court orders action, FEC has lost too many members now to vote on it.

“The FEC sat on our complaint for years, and has now lost its quorum,” he said. “In the meantime, GEO has continued to make big donations using corporate subsidiaries.”

According to the National Institute on Money and Politics, GEO Group subsidiaries have given money to Super PACs supporting other Florida Republicans, including U.S. Senator Marco Rubio and U.S. Representatives Brian Mast and Matt Gaetz. All told, the company has given nearly $1.9 million to various GOP Super PACs since 2015. In Florida alone, where GEO Group is headquartered—at an address shared with subsidiaries—the firm has donated over $8.7 million to various Republican political campaigns, and another $8.4 million to political lobbyist groups who promote private prison enterprise.

The Obama administration decision to move away from private, for-profit prison contractors was premised upon findings by the Office of the Inspector General that determined for-profit-prisons are less safe and no less costly than public facilities. In a separate lawsuit filed in 2017, CLC sought to compel the Trump administration to provide other evidence that might support reversing this policy. In June of that year, a court ruled in CLC’s favor that the administration had failed to provide such evidence. Yet the policy didn’t change. For-profit prisons, and specifically GEO Group, have continued to thrive.

Meanwhile, a Super PAC formed in March 2019 to support the re-election of Maine’s U.S. Senator Susan Collins (R) released the names of its donors as required by law. One of them was GEO Acquisition II, yet another subsidiary of GEO Group. The Collins-aligned Super PAC, known as “1820,” the year Maine was admitted to the Union, has already spent some $700,000 on media ads in support of the 67-year-old senator, who faces a strong Democratic challenger this November in 48-year-old state House Speaker Sara Gideon, who has already raised $4 million in contributions. ❑

Sources: prosearch.org, campaignlegal.org, citizentruth.org, miaminewtimes.com, finance.yahoo.com

$596,475 in Fees and Damages Awarded Against NY DOCCS For Contempt in Denying Pain Medication to Blind Prisoner

by Chad Marks

U.S. District Court Judge Loretta A. Preska has ordered the New York Department of Corrections and Community Supervision and Community Supervision (DOCCS) to pay up to a victim of contempt case.

Amy Jane Agnew, an attorney representing Anthony Medina a prisoner who is blind, filed a complaint on March 12, 2015 arguing that his civil rights were violated by medical staff failing to effectively treat his pain. In February 2017, the Court issued an order granting a preliminary injunction, directing the DOCCS to immediately reinstate Medina’s prescription of Tramadol (Ultram) or an alternate but equally effective pain medication for neuropathic pain.

The Court also ordered the DOCCS to dim or turn off Medina’s overhead cell light in accordance with past accepted requests regardless of his housing facility and unit.

On June 21, 2108, Medina moved the Court for a finding of civil contempt, requesting monetary damages for unnecessary pain and suffering, and attorney’s fees. The court gave a detailed ruling finding in Medina’s favor and ordering the parties to confer regarding fees and damages. See: Medina v. Butter, 2019 U.S. Dist. LEXIS 23529.

The Court issued a decision on September 12, 2019, granting Medina’s request. The DOCCS was ordered to pay Medina $150,000 in compensatory damages, $388,069 in attorney’s fees with another $58,475.13 in costs, totaling $596,475.13.

In making this determination, the Court looked to the court of appeals’ decision in Weitzman v. Stein, 98 F.3d 717 (2d Cir. 1996), which held: “The sanctions for civil contempt serve two purposes: to coerce future compliance and to remedy any harm past noncompliance caused the other party.”

In granting the award, the Court made clear that civil contempt sanctions must be remedial and compensatory rather than punitive. The Court also recognized that “compensatory sanctions may include an award of attorney’s fees and costs if the court finds willful violation.” Accordingly, the Court granted Medina’s motion consistent with this opinion. See: Medina v. Butter, U.S.D.C. (S.D.N.Y.), Case No. 1:15-cv-01955. ❑

Just released 2020...

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$425,000 Settlement in Arkansas Detainee’s Death from Asthma Attack

by David M. Reutter

The estate of a pretrial detainee who died at Arkansas’ Pulaski agreed to a $425,000 settlement to resolve a civil rights action. The settlement requires payment from Pulaski County and its medical vendor, Turn Key Health Clinics.

Sharon L. Alexander, 41, was arrested on December 13, 2016, for robbery after a scuffle with a store loss prevention clerk, tried to prevent the theft of $234.16 in clothing. Alexander was taken to the Pulaski County Jail. A medical intake form showed she was 100% disabled, suffered from sickle cell anemia, asthma, and rheumatoid arthritis. She possessed an asthma pump “ASAP.”

About seven hours later, Alexander started convulsing and wheezing loudly in her cell. Medical assistance was called and resuscitation efforts ensued, but they failed. Alexander was taken to a hospital and was pronounced dead at 11:02 p.m. An autopsy concluded she died of Acute Asthma Exacerbation.

Afghanistan: The Ministry of Interior Affairs is working on a draft proposal aimed at reducing jail time, while promoting “reading culture.” By the end of 2019, Afghanistan had at least 35,000 prisoners in jails across the country. If the proposal is adopted, a prisoner could receive a six-day prison sentence discount for reading a book and giving a 10-minute presentation about it. To qualify, the book must be at least 100 pages. Pul-e-Charkhi Prison in Kabul often houses up to 10,000 prisoners, of which 2,000 Taliban insurgents are housed in the Block Six wing. It is unclear if the proposed reading program would be available to Block Six residents.

Arizona: Back in May 2019, a fugitive Pima County, Arizona, couple was picked up in Henrietta, New York. Blane and Susan Barksdale were wanted for killing Frank Bligh in Tucson in early April, taking his car and setting fire to his house. They sat in the Monroe County, New York, jail for three months before being handed over to Security Transport Services on August 22. Six days later, they overpowered security officers in Blanding, Utah. They were on the lam again. Considered armed and dangerous, cash rewards were offered, and Blane Barksdale was added to the 15 Most Wanted list. In September, U.S. Marshal for the District of Arizona David Gonzales reported, “The 16-day intensive manhunt for Blane and Susan Barksdale ended last night.” They were extradited to Tucson to face first-degree murder charges. Tucson Homicide Detective Josh Cheek told reporters in February 2020, “Susan said she was done protecting this monster and she wanted to tell the truth about what happened.” Susan’s attorney has indicated that she may be ready for a plea deal.

California: Former Wasco State Prison guard Joseph Andrade was arrested with Leonard Velazquez-Martinez after trying to buy two kilos of cocaine and 18 kilos of methamphetamine from an undercover cop, the Department of Justice announced. They were charged in June 2019 with conspiracy to possess drugs with intent to distribute. Andrade had worked at Wasco State Prison as a guard since 2006. Velazquez-Martinez was from Minnesota, with a prior criminal history. It is unclear how the two knew each other. Andrade was driving his car with Velazquez-Martinez in the front passenger seat. Velazquez-Martinez showed the undercover cop a grocery bag of money intended for the purchase. Investigators speculate that some of the drugs were intended for distribution at Wasco State. Joseph Andrade was placed on administrative leave for the duration of the investigation. The arrest followed an undercover sting on June 24, 2019, by the DEA, in concert with the Kern County
April 2020

China: February 2020 saw 500 confirmed coronavirus cases in prisons south of Beijing. Of those, 230 were diagnosed in the Wuhan's women's prison, whose director was dismissed. About 200 prisoners and seven guards tested positive at Rencheng prison in Shandong province; seven prison officials and the Shandong Department of Justice party secretary were removed. Shifeng prison in Zhejiang had only 34 infected, but two prison officials were fired. Chinese state media had featured the story of Peng Yinhua, 29, a respiratory and critical care doctor at the First People's Hospital in the Jiangxia district, who had delayed his wedding to continue working against the coronavirus. He was admitted as a patient in January and died, despite officials announced planned “condolence emergency treatment in February. Wuhan as a patient in January and died, despite against the coronavirus. He was admitted to his cell by his assailants. A full day passed. A guard who went to get Cardoza for his court hearing found his body. His murder was captured on security cameras, but no one was watching. A 2008 review of the jail called it “deplorable.” In 2013, Merced County failed to document the jail's defects in order to qualify for state “realignment” money to relieve unconstitutional overcrowding. Gang violence had escalated and taken advantage of the many blind spots in the facility which was built in 1968. The Merced County District Attorney's Office announced in July 2019, that it was pursuing the death penalty against Santiago Martinez, 28, the main suspect in Cardoza's murder. Governor Gavin Newsom signed an executive moratorium on California executions in March 2019, but prosecutors noted that the Martinez case and appeal would probably not conclude until well after Newsom was no longer governor.

Florida: On December 12, 2019, a judge granted Kenzi Dunn's motion for early release, citing “extreme distress” after she miscarried in an Osceola County Jail cell toilet. She was serving a four-month sentence for a probation violation. Dunn, 21, found out she was pregnant when she was booked into the jail in October 2019. She was 13 weeks along, when she began bleeding on December 4, 2019, three weeks before her scheduled release. “It was torture,” Dunn said, “I was laying in my bed full of blood and they never came back to check on me.” Dunn hired attorney Mark O'Mara in January 2020 to take legal action against the jail and Armor Correctional Health, the medical care contractor. Dunn claims Armor nurses said nothing could be done about her bleeding and, later, that doctors were not available on weekends. She was finally taken to a hospital on December 9, then back to the same cell the following day. On January 15, 2020, Armor denied negligence, “We found that all policies and procedures were followed.”

Florida: “They don't let me see him. They don't want my son happy, that's why they don't let me see him,” said Marlene Simmons, the mother of Florida rapper Kodak Black, 23. Black, born Diuson Octave, was sentenced to 46 months in prison in November 2019 for lying on background check forms to buy guns. His family announced plans to sue the BOP in January 2020 for violating his and other prisoners' civil rights while at FDC Miami. But when his lawyer, Benjamin Crump, took them to visit and discuss the case, Black was gone, moved out of state to FTC Big Sandy in Inez, Kentucky. In February 2020, Black filed an appeal. The judge had considered him as a convicted felon in a previous Florida armed robbery, but Black had pleaded "no contest" in that case, so had not been convicted. Despite being in prison, Black also released a new single, *Because of You* and an official music video in February. Promoters say the video was cut before his 2019 arrest.

Georgia: McRae Correctional Facility is a private prison in Telfair County, operated by CoreCivic under contract with the Federal Bureau of Prisons and housing non-citizens. In August 2019, Michael Kerr, 30, of Vidalia was hit with a 14-count indictment for taking bribes in exchange for smuggling cigarettes to an unnamed prisoner. The indictment alleges 12 payments totaling $5,790, the amount the government seeks in forfeiture. Kerr claimed to have only accepted a single $100 bribe, leading to the single count of making a false statement to law enforcement. It is unclear if Kerr resigned or was fired by CoreCivic. “Bribery and smuggling contraband into federal prisons will not be tolerated, and our agents will continue to root out these schemes,” said Special Agent in Charge, James F. Boyersmith.

Iran: To stem the spread of Covid-19 infections in Iran's crowded jails, the country has temporarily released more than 54,000 prisoners. Prisoners must test negative for the virus and post bail. Gholamhossein Esmaili, a judiciary spokesman, assured the public that "security prisoners," those serving sentences longer than five years, would not be eligible. British-Iranian charity worker Nazanin Zaghari-Ratcliffe was convicted on espionage charges and sentenced to five years in 2016. She and the UK insist she is innocent. Zaghari-Ratcliffe was released from Tehran's Evin prison. Zaghari-Ratcliffe's husband feared that she had contracted Coronavirus. A UK Foreign Office spokesman said, “We call on the Iranian government to immediately allow health professionals into Evin prison to assess the situation of British-Iranian dual nationals there.” Experts from the World Health Organization (WHO) were sent to Iran, where 23 members of the 290 seat Parliament have already tested positive.

Italy: Protests in Italy's overcrowded prisons erupted in March fueled by coronavirus anxieties and containment measures. Italian prisons are notoriously overcapacity, with the nationwide average at 120 percent. San Vittore was built for 700 but houses
1,200 prisoners; prosecutors climbed onto the roof to listen to protesters’ grievances. At least 50 prisoners escaped from the Foggia prison by climbing the fence, while riot police tried to hold them back. Forty have been recaptured. Riots occurred in 24 lock-ups, with six prisoners in Modena overdosing on methadone after breaking into an infirmary. While the government has instituted sweeping measures to avoid mass gatherings, existing prison conditions make those populations most vulnerable and they know it. Advocates are advising wardens to allow greater access to information and more phone calls to family members, stating, “The difficulty of accepting extreme measures is accentuated in places where people don’t have any freedom.” Secretary General of the Penitentiary Police Union Donato Capece told reporters, “The administration is completely absent. They have left the penitentiary police in jeopardy.”

Japan: To celebrate Emperor Naruhito’s enthronement ceremony in October 2019, the government approved granting nearly 550,000 pardons to prisoners whose convictions were more than three years prior and were for minor infractions. Approximately 80 percent were involved in traffic violations or accidents. The Justice Ministry stated that the enthronement is “an opportunity for the citizens of Japan to cleanse their spirit and start anew.” Upon request, special clemency will be granted to people with suspended sentences due to hospitalization, most of whom are over 70 years old. Japan’s modern constitution was introduced in 1947. Since then, criminal pardons have been issued 10 times to mark significant national events. Ten million people received amnesty in 1989 to mark the death of Emperor Showa. Some 2.5 million people were pardoned the next year to celebrate the enthronement of Naruhito’s father, Emperor Akihito. Japan is a constitutional monarchy and the role of Emperor is largely ceremonial. The Japanese monarchy, also referred to as the Yamato Dynasty, is the oldest continuous hereditary monarchy in the world.

Kentucky: In May 2019, former Fulton County Detention Center jailer James Eakes was convicted by a federal jury for violating the civil rights of a prisoner by assaulting him with a dangerous weapon. The episode took place in August 2016, and the FBI Louisville Field Office investigated. Eakes and two female jailers went to the cell of a suicidal prisoner. Following jail procedure, they stripped the prisoner, removed all possessions and left him with an anti-suicide garment. After the door was locked, the prisoner cursed at Eakes. According to a Department of Justice press release, Eakes “ordered that the door be unlocked, removed his Taser from his holster, opened the door, and immediately shot L.B. with his Taser. Eakes then entered L.B.’s cell, and, while activating the Taser, repeatedly yelled at L.B. not to curse at him again. Despite the fact that L.B. took no aggressive action towards Eakes and remained slump against the cell wall, Eakes tased L.B. two additional times.” Eakes was sentenced to four years in prison and one-year supervised release.

Louisiana: Ten prisoners were taken to area hospitals after a freak lightning strike in the recreation yard of the David Wade Correctional Center in Homer on September 9, 2019. Prison officials did not release the names of the injured. The men were playing flag football in the yard about 6 p.m., when lightning struck the ground near them. Nine were back from hospital the next day after treatment for cuts, bruises, headaches, disorientation and dizziness; one stayed at Northwest Louisiana Hospital in critical condition. Prison officials were quick to note, “It is David Wade Correctional Center’s procedure to clear the yard when potentially dangerous weather approaches.” No further information was released.

Michigan: RecoveryPark in Detroit began in 2010 to launch a new vision of community development around urban farming and food production, just as the “eat local” movement was emerging. It took over a 22-block area (105 acres) in the city’s lower east side. The mission was to create jobs for recovering addicts and former prisoners re-entering the job market. None of its workers has returned to prison. In July 2019, RecoveryPark was plagued by a rash of three robberies in the same week; over $25,000 in equipment was stolen. The setback was temporary. Investors have made it possible for the project to expand to commercial scale hydroponics. The first crop of baby lettuce is expected to be harvested in August 2020. CEO Gary Wozniak said, “Our mission is to create jobs for people with barriers to employment: people coming out of prison and/or drug treatment programs. Our vision is to do that by creating jobs in the food industry and eventually we’ll transfer majority ownership to the workforce in those businesses.”

New Jersey: Alia Imad Faleh Al Hu naughty, 44, a naturalized U.S. citizen from Jordan, was sentenced in March 2020 to 70 months in prison for enslaving a Sri Lankan in her home. She also was ordered to pay the victim $1.2 million in restitution and will be under three years’ supervised release when she gets out of prison. Hunaity was convicted in May 2019 by a federal jury on charges of forced labor, alien harvesting for financial gain and marriage fraud. The victim was brought to New Jersey in 2009 on a temporary visa with promises of a better life. Hunaity works as a cancer research scientist in New York state. She forced the victim to cook and clean Hunaity’s homes in Woodland Park and Secaucus, and work as nanny to her three children without pay. One of the triplets has cystic fibrosis. U.S. District Judge Robert Kugler stated that Hunaity also “forced the victim into a sham marriage” to obtain legal U.S. residence. The victim wanted leniency because of her children, but the judge believed Hunaity showed no remorse.

North Carolina: “If you’re a Muslim in here, you’re gonna’ get a Bible as well as a Quran, because that’s my mandate,” former High Point Jail Ministry chaplain, Rick Taylor told the local newspaper in April 2019. He also said he worked with people with depression, suicidal thoughts, addiction, and other mental health issues by sharing Christ to help them. That same month, Sheriff Danny Rogers decided to restructure the religious programs at the jail. Administrative director for the Guilford County Sheriff’s Office Catherine Netter said, “Sheriff Rogers has decided to restructure the ministry program for the High Point Jail and expand the reach to ensure all religious denominations are being served” She declined to say if the restructuring was in response to Taylor’s comments, but the chaplain was fired in April. In July, the High Point Jail Ministry, founded in 1991, closed after nearly 30 years. Its mission, stated on its Facebook page, had included “saving lost souls and changing lives in our jail and prison systems.”

North Carolina: Ruth Bryant turned 100 on March 4, 2020. She stands 5-feet
1-inch, according to her mugshot at the Person County Jail in Roxboro, North Carolina. “I’m in the jail-house now! I finally got here!” she announced after deputies presented her with an orange “PERSON COUNTY JAIL” T-shirt. Sheriff’s officers arrived at Bryant’s assisted living facility with an arrest warrant for indecent exposure on her birthday. The men handcuffed her to her walker and put her in a patrol car. “Don’t kick me; I’ve got a bad knee!” cautioned one of the arresting officers. “I’ve got two bad knees!” retorted Bryant. She was whisked to jail with sirens blaring. It turned out the whole thing was a stunt as going to jail with sirens blaring. It turned out the whole thing was a stunt as going to jail was on Bryant’s bucket list. A party and birthday cake were waiting for her at the facility when she returned. TV station KOKH FOX 25 posted video of the arrest on its Facebook page.

Ohio: “Inmates do not surrender their human dignity along with their freedom. These two men abused their authority to pound a prisoner strapped to a chair. We wouldn’t stand for a dog to be treated like that – let alone someone exercising the authority of the State,” Ohio Attorney General Dave Yost said in a press release after two Cuyahoga County jailers plead guilty in the March 2019 beating of Terrance Debose, 47. Jail surveillance cameras recorded Nicholas Evans turning off his bodycam before he and Timothy Dugan pummeled the mentally ill prisoner who was confined to a restraint chair and fitted with a “spit hood.” The two were sentenced in February 2020 in the Cuyahoga County Court of Common Pleas. Nicholas Evans will serve nine months in prison and Timothy Dugan only 10 days. Both resigned. Debose considers the sentences a “slap on the wrist” and is expected to file a civil suit against Cuyahoga County. The jail has been under scrutiny since eight prisoner deaths in 2018.

Ohio: The minimum-security wing of the Columbiana County Jail used to be a county nursing home. In June 2019, three men escaped through the shower area by breaking a window and cutting the security fence. Michael Conzett changed his mind and went back to the jail, but Anthony Wagoner of East Liverpool and Michael Hover Jr. of Salem were homesick. Those two were on the lam for two days before being re-captured at their respective homes after tips were called in to police. St. Clair Township’s police dog, Axel, was sent into Wagoner’s house. He ran out the back and was subdued after two stun gun shots. Hover pleaded guilty to escape in February 2020 and was sentenced to 24 months, concurrent with his previous sentences, adding 14 months to his total time. Wagoner previously pleaded guilty to escape and evidence tampering, but skipped his February 2020 sentencing hearings, prompting a bench warrant to be issued. Conzett’s jury trial on a fifth-degree felony escape charge is scheduled for April 2020.

Russia: On February 12, 2020, moments after Viktor Sviridov was sentenced to three years in a prison colony for extorting 10 million rubles ($158,200) from former Russian Federal Penitentiary Service Deputy Director Alexander Sapozhnikov, Sviridov shot himself in the head with a handgun. Emergency services told the Russian state news agency TASS, “After the guilty verdict was handed down, Sviridov committed suicide. He died on the spot.” Russian authorities claimed that the bag Sviridov pulled the gun from had been “properly inspected” when he carried it inside. Bailiffs had only found a flask filled with alcohol on him. Sviridov, 71, had stage four cancer. His attorney, Grigory Ivanishchev, said his client had expected a not-guilty verdict. “I associate this [suicide] with the court’s decision,” he said. Both the defense and the victim’s representatives requested leniency in the case. Three years was less than half of the seven-year minimum provided for in Russian extortion laws. Sviridov had been head of the federal prison service’s motor transport department. He had previously served as a liquidator following the Chernobyl nuclear disaster.

South Carolina: Kenney Boone had been Florence County’s sheriff since 2004, when he pleaded guilty to embezzlement...
and misconduct in January 2020 for using federal drug money to buy personal items. Judge William McKinnon gave Boone a five-year suspended sentence, with Boone agreeing to pay $16,000 in restitution. In February, the ousted sheriff was charged with second-degree domestic violence and animal abuse after threatening his wife with a baseball bat and hitting the family cat. Their daughter called 911. He was booked into the Darlington County jail, then moved to the Florence County Detention Center. In March, Circuit Judge Paul Burch revoked Boone’s bond after he went to the gym where his wife works out, violating his probation agreement. Anna Boone, his wife spoke in his defense, “I believe the conditions of the bond are far too restrictive on Kenney. It was never my intention for Kenney to be arrested, and I was never afraid of Kenney harming me or the children.” Boone was being held in protective custody at the Darlington County Sheriff’s Office.

South Carolina: Former Postal Center Director for McCormick Correctional Institution Brenda Wideman, 59, was arrested and fired in July 2019. The arrest warrant states, “Probable cause based on investigation, recovery of evidence and a statement of subject.” Wideman is accused of giving contraband food and clothing to a prisoner. Upon arrest, she admitted to knowing that prisoners received packages through the mail containing tobacco and marijuana but did not report the incidents. The warrant further alleges that Wideman was given cash by prisoners for her cooperation. The South Carolina Department of Corrections Police Services released the arrest warrant.

Tennessee: A Cheatham County Grand Jury presentment was filed in November 2019 against former Cheatham County jailer Mason Carr, 23. According to Cheatham County Sheriff Mike Breedlove, Carr “was introducing drugs into the facility and providing them to inmates.” The drugs in question were alleged to be Suboxone. The presentment states Carr possessed a .45 ACP pistol “with the intent to go armed during the commission of a dangerous felony.” The “dangerous felony” was not specified. Carr was initially arrested in June 2019 and District Attorney General Ray Crouch asked the Tennessee Bureau of Investigation to help with the investigation. Carr was booked into the Cheatham County Jail, then moved to Montgomery County Jail for his safety. Online sources show him later transferred to “another authority.”

Tennessee: Two deadly tornadoes with winds up to 175 mph ripped through central Tennessee on March 3, 2020, killing 24 people. An architectural casualty was the Victorian style Tennessee State Prison near Nashville, formerly the Tennessee State Penitentiary. The prison was built using mostly prison labor and opened in 1898. Built for 800, it housed 1400 prisoners on day one and remained over-capacity until...
it was closed in 1992, due to a class action lawsuit, Grubbs v. Bradley. A permanent injunction was ordered prohibiting the state from ever housing another prisoner there, citing it as “unfit for human habitation.” Still owned and operated by the state, the old pen’s castle-like façade made it a favorite location in at least nine films, most notably The Green Mile and Walk the Line. It has also been a backdrop in numerous music videos. Nashville film producer Brian Siskind posted online, “The weight of the loss of this building will be felt for many as it was a tie to their past, in darkness or light.”

Tennessee: Lauderdale County District Attorney Mark Davidson announced in February 2020 that his office has filed a notice of intent to seek the death penalty if Curtis Ray Watson is convicted of the August 2019 rape and murder of West Debra Johnson. [See: PLN, January 2020, p. 26] Johnson was the first TDOC employee killed in the line of duty in 15 years.

Tennessee: Claiborne County Sheriff’s Office policies ban using stun guns to punish inmates but allow their use “to control a detainee that otherwise cannot be controlled by any other means or for personal protection for an aggressive inmate.” The attorney for former Claiborne County assistant jail administrator Mark Steven Ellis, 38, believes his client would not have been indicted, if the policy had been revealed to the grand jury. Ellis was indicted in July 2019 on one count each of official oppression and assault for a single stun gun shot while guards struggled to place prisoner Robert Davis Jr. in a restraint chair in May 2019. Witnesses claim Ellis also smacked the prisoner. According to Ellis’s incident report: Davis punched, kicked and spat in the struggle. “The Taser had the appropriate effect and inmate Robert Davis (then) complied with commands. No officers or inmate was harmed.” Ellis was fired and turned himself in after the indictment. He posted $5,000 bond. Ellis’ father, Steven Ellis, the former chief jail administrator, quit over the incident.

Texas: A GEO Group spokesman confirmed in May 2019, that Manuel Lopez III, 25, of Laredo had resigned from his job as a guard at the Rio Grande Detention Center. He had worked there since 2014. Lopez, driving a black Ford Explorer, had been pulled over by a state trooper for a traffic violation on U.S. 59. The trooper found 15 bales of marijuana, with a street value of $140,000, in the cargo area. According to the Texas Department of Public Safety, the contraband weighed 280 pounds. Lopez was booked into the Webb County Jail before being released on bond. In November 2019, Lopez was arrested again, charged with unauthorized use of a motor vehicle. In August 2019. Lopez took his ex-wife’s keys from her purse, when he dropped his children off at her house. He came back later that night to take the Ford Explorer. The Laredo PD auto-theft task force brought the case to an assistant district attorney, who approved the arrest warrant. Lopez is again out on bond.

Virginia: The Department of Corrections announced plans to spend $13.6 million to replace all cell doors at Sussex I and II high security state prisons in
Waverly, because prisoners are jamming them and can leave their cells without staff knowledge or approval, making the facility unsafe. The project is slated to begin in April 2020 and take three years to complete. The existing doors are opened and closed from each pod’s control booth, but on a different design than at other VADOC facilities. During the transition, keyed locks will be added and staff numbers will be boosted to facilitate any emergency evacuation that might arise. The VADOC is working with the fire marshal’s office to assess emergency requirements.

Virginia: A federal grand jury in U.S. District Court for the Western District of Virginia in Roanoke returned a superseding indictment in June 2019, adding 15 charges against John Marshall Higgins, the former Rockbridge County Regional Jail superintendent. The August 2018 indictment (See PLN, February 2019, p.41) included counts against Higgins and former RCRJ head nurse Gary Andrew Hassler. The new mail fraud charges allege that Higgins accepted prescription drugs, without charge, for personal use from a pharmaceutical company contracted with the Rockbridge Regional Jail. The pharmaceutical company provided the drugs as a perk to keep the jail contract. The new charges in the superseding indictment also allege that Higgins agreed to accept items of value from a Rockbridge Regional Jail prisoner’s family in exchange for providing preferential treatment. Higgins’ federal jury trial has been rescheduled to April 2020. Hassler was found guilty on one count of falsifying medical documents at his July 2019 trial. He was sentenced to one year in federal prison. Higgins continued on the Rockbridge County Board of Supervisors through 2019.

Criminal Justice Resources

**Amnesty International**
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 Herriottown 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 and supports activists working for imprisoned and released rape survivors and other human rights issues. No legal services are provided. 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 appeal 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

**Justice Denied**
Primarily provides research, fact sheets and a program directory related to families of prisoners, including parents, children of prisoners, prison visitation, prisoners whose cases involve DNA evidence and are at the post-conviction appeal 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 Stop Prison Rape, JDI seeks to end sexual violence against prisoners. Provides resources for imprisoned and released rape survivors and activists for almost every state. Contact: JDI, 3325 Wilshire Blvd. #340, Los Angeles, CA 90010 (213) 384-1400. www.justdetention.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
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**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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**Prison Nation: The Warehousing of America’s Poor**, edited by Tara Herivel and Paul Wright, 332 pages. $35.95. PLN’s second anthology exposes the dark side of the ‘lock-em-up’ political agenda and legal climate in the U.S.

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**The Merriam-Webster Dictionary, 2016 edition**, 939 pages. $9.95. This paperback dictionary is a handy reference for the most common English words, with more than 75,000 entries.

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**Deposition Handbook**, by Paul Bergman and Albert Moore, Nolo Press, 426 pages. $34.99. How-to handbook for anyone who conducts a deposition or is going to be deposted.

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**Criminal Law in a Nutshell**, 5th edition, by Arnold H. Loevy, 387 pages. $49.95. Provides an overview of criminal law, including punishment, specific crimes, defenses & burden of proof.

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**Spanish-English/English-Spanish Dictionary**, 2nd ed., Random House. 694 pages. $15.95. Has 145,000+ entries from A to Z; includes Western Hemisphere usage.

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**Rogers’ Thesaurus**, 709 pages. $9.95. Helps you find the right word for what you want to say. 11,000 words listed alphabetically with over 200,000 synonyms and antonyms. Sample sentences and parts of speech shown for every main word. Covers all levels of vocabulary and identifies informal and slang words.

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**Beyond Bars, Rejoining Society After Prison**, by Jeffrey Ian Ross, Ph.D. and Stephen C. Richards, Ph.D., Alphabet, 224 pages. $14.95. Beyond Bars is a practical and comprehensive guide for ex-cons and their families for managing successful re-entry into the community, and includes information about budgets, job searches, family issues, preparing for release while still incarcerated, and more.

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**The Federal Rules of Civil Procedure, Practitioner’s Desk Reference 2017**, by A. Benjamin Spender, 439 pages. $54.95. This concise compilation of the Federal Rules of Civil Procedure and portions of Title 28 of the U.S. Code most pertinent to federal civil litigation provides attorneys and pro se litigants with a handy resource that facilitates quick reference to the Rules.

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**Merriam-Webster’s Dictionary of Law**, 634 pages. $19.95. Includes definitions for more than 10,000 legal words and phrases, plus pronunciations, supplementary notes and special sections on the judicial system, historic laws and selected important cases. Great reference for jailhouse lawyers who need to learn legal terminology.

2018


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**Hepatitis and Liver Disease: What You Need to Know**, by Melissa Palmer, MD, 471 pages. $19.99. Describes symptoms & treatments of Hepatitis B & C and other liver diseases. Discusses medications to avoid, diets to follow and exercises to perform, plus includes a bibliography. 1031

**Criminal Procedure: Constitutional Limitations**, 8th ed., by Jerold H. Israel and Wayne R. LaFave, 557 pages. $49.95. This book is intended for use by law students of constitutional criminal procedure, and examines constitutional standards in criminal cases. 1085

**Prisoners’ Self-Help Litigation Manual**, updated 4th ed. (2010), by John Boston and Daniel Manville, Oxford Univ. Press, 928 pages. $54.95. The premiere, must-have “Bible” of prison litigation for current and aspiring jail-house lawyers. If you plan to litigate a prison or jail civil suit, this book is a must-have. Includes detailed instructions and thousands of case citations. Highly recommended! 1077


**Sue the Doctor and Win! Victim’s Guide to Secrets of Malpractice Lawsuits**, by Lewis Laska, 336 pages. $39.95. Written for victims of medical malpractice/neglect, to prepare for litigation. Note that this book addresses medical malpractice claims and issues in general, not specifically related to prisoners. 1079

**Advanced Criminal Procedure in a Nutshell**, by Mark E. Cammack and Norman M. Garland, 3rd edition, 534 pages. $49.95. This text is designed for supplemental reading in an advanced criminal procedure course on the post-investigation processing of a criminal case, including prosecution and adjudication. 1090a

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