



MI-CURE NEWS

A QUARTERLY PUBLICATION OF
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MI-CURE'S PLANS FOR 23RD ANNUAL MEETING

This year, the focus of our annual meeting will be on programming within the MDOC. As noted in the article below, we believe a robust set of programs (in every MDOC facility) is critical to the health, safety, and future of those incarcerated and staff. This meeting will give us a chance to better understand what is currently being offered, what improvements are planned, and what role (if any) our members can play in improving the current situation. Tom Combs who oversees reentry, including all programming, will present a global view of programming. The department will also send a practitioner who will discuss specific program(s).

The meeting will be held on **Saturday, October 17, 2015**. We will meet and greet at 9 am; the meeting will begin at 9:30 am. The event will be held at St. Katherine's Episcopal Church, 4650 Meridian Road, Williamston, MI 48895. **All interested parties are welcome.** The facility is accessible for individuals with disabilities. We hope to see you there!

FOCUS FOR THIS EDITION

In the May edition of our newsletter, we began a process of asking our readers for their ideas on issues related to ending mass incarceration. These are not intended to be scientific surveys, but rather a chance for policy makers and members of the public to hear voices and perspectives they might not normally hear.

We will include as many of the suggestions as possible. We may, of course, summarize responses, and we will not identify the writers. Since our newsletter is sent to all legislators and some policy makers, your suggestions may just inspire some policy changes. We look forward to reading your ideas!

Our May edition readers did not disappoint us. We received many responses and they are summarized in the article, "Results of May Newsletter Surveys." Thanks to all who wrote to share your views. As several of our incarcerated members reminded us, writing to us may require a sacrifice, since the cost of a stamp is a significant portion of one's daily wages. We appreciate your effort to share your views!

This month we want to talk about the issue of employment and programming. We believe this is a critical issue for several reasons. A study by the RAND Corporation concluded that incarcerated persons who receive general education and vocational training are significantly less likely to return to prison after release and are more likely to find employment than peers who do not receive such opportunities. An

investment of \$1 in prison education reduces incarceration costs by \$4 to \$5 during the first three years after release. Individuals who participate in correctional education programs have a 43% lower odds of returning to prison than those who do not. Employment after release was 13% higher among individuals who participated in either academic or vocational education programs than those who did not. Those who participated in vocational training were 28% more likely to be employed after release from prison than those who did not receive such training.

In addition, programs run by incarcerated persons provide job opportunities for the instructor. Programs run by volunteers provide an opportunity for more people in the community to better understand what happens inside a prison. Institutions are safer when the majority of people are engaged in constructive activities. Some programs may improve one's chances of earning a parole.

We want to better understand the programs within the system. You can help us by providing answers to as many of the following questions as possible.

1. Are you currently involved in employment and/or programming? If so, for how many hours per day or week?
2. Are there programs you wish to attend that are not available to you? If so, what is the program or job and why are you unable to participate?
3. What programs are you, or have you, participated in?
4. In each case, what institution were you in?
5. In each case, what was your role? Student? Facilitator? Tutor? Member? Other?
6. In each case, who led the group? Staff? Incarcerated Person? Volunteer? Other?
7. How often did each group meet? For how many days/weeks?
8. Which were the most valuable programs? Why?
9. Which were the least valuable programs? Why?
10. If you had the authority to establish any program(s) you wanted, what would that (they) be?
11. Have you encountered any roadblocks to participating in programming? Please explain.
12. If you have not participated in programming, why not?
13. From 7 a.m. and 9 p.m. on a normal weekday, how many hours are you idle?
14. Is there anything you would like to ask the MDOC about programming?
15. Is there anything about programming that you want to tell us that we didn't ask? Please tell us about that!

Source: Press Release: "Education and Vocational Training in Prisons Reduces Recidivism, Improves Job Outlook," RAND office of Media Relations, August 22, 2013

RESULTS OF MAY NEWSLETTER SURVEYS

Recommendations Regarding Sentencing

In the May edition of our newsletter, we asked our readers the following questions: "What changes would you like to see in Michigan's current sentencing guidelines and practices? Is there anything you would like the new Criminal Justice Policy Commission to consider?" Some suggestions we received may actually conflict with others. We attempted to include all. Below are the suggestions we received.

Alter the truth-in-sentencing law so that individuals can earn good time and be released prior to the minimum sentence. There were several suggestions for structuring good time, including day-for-day, granting more to nonviolent offenders than to violent offenders, base it upon participation/completion of programming or good behavior, permitting someone to work for good time rather than pay. If good time is implemented, apply it retroactively for anyone who has served more than 20 years.

There were several general recommendations, which included the following. Reduce maximum sentences. Eliminate long indeterminate sentences. Cap maximum sentences at 20 years or even 30 years. Adopt determinate sentencing. Expand the list of crimes for which alternatives to incarceration may be given.

Eliminate the "trial penalty." Sentences for a conviction after a trial should not be different than the sentence offered in a plea negotiation. Alternatively, eliminate plea-bargaining.

Establish a method for a meaningful review of any "clear and compelling" reasons for exceeding the sentencing guidelines. Prohibit the judge from issuing a sentence outside the guidelines without a jury recommendation. The jury should decide the punishment – not the judge.

Prohibit the addition of judicially imposed collateral consequences (e.g. life-time monitoring) after the date of sentencing.

There were a number of suggestions for modifying the treatment of those designated as habitual offenders. We have numbered them for ease of reading. (1) A popular suggestion was to apply the habitual designation only to those who commit the same crime repeatedly, rather than to those who may commit several different crimes over a period of years. (2) A related suggestion was to apply the designation only to someone who commits similar crimes as an adult. (3) Apply retroactively the change to prohibit counting multiple felonies arising out of a single crime as more than one offense for habitual enhancement purposes. (4) Do not use convictions that are more than ten years old (especially if non-violent) to determine habitual designations. (5) Eliminate the habitual

offender law. It is not fair to punish someone twice for the same crime. (6) Convictions for felony offenses that are subsequently changed to misdemeanor offenses should not be counted when determining whether to apply the habitual offender designation. (7) Base sentences on the severity of the crime, with no consideration for the criminal history

Apply sentencing changes retroactively. Examples include the prohibition on mandatory JLWOP and the recognition that the use of deadly force or force other than deadly force is not a crime if done in self-defense. (780.961; P.A. 2006 No. 310)

Asset forfeiture should occur only as part of a sentence and only if the resources are a result of the criminal behavior for which the sentence is given.

There were several suggestions related to the sentencing of persons convicted of sex offenders. (1) Eliminate residency restrictions. (There is no proof that they prevent crime and they make transition from prison extremely challenging.) (2) Eliminate mandatory sentences for some CSC offenses. The sentences are not consistent with recidivism studies. (3) Require registration only for persons with a high risk of reoffending.

Focus on restorative practices.

Give special consideration for the elderly and infirm - perhaps presumptive parole.

Increase the number of programming options for parole violators.

Take steps to eliminate racial bias in sentencing practices.

Allow prisoners who have served one-half or three-quarters of their sentence to petition the sentencing judge for a reduction in sentence.

Reduce the disparity in sentencing. (1) Ensure that the punishment for a crime does not far outweigh the significance of the crime. (2) Modify the unarmed carjacking statute (MCL 750.529a) so that sentences are consistent with the unarmed robbery statutes. NOTE: Sentences for unarmed carjacking are currently 2 to 5 times greater than for unarmed robbery. (3) No one should do more time for a home invasion 2nd degree than for manslaughter. (4) Eliminate enhancements for using a computer for a crime. (5) There should not be more than a 10-month gap in minimum guidelines.

Ensure that mitigating circumstances carry as much weight at aggravating circumstances. Consider mental health conditions as mitigating circumstances, particularly when they are related to service in a military combat theater. Recognize battered-child syndrome as a valid mitigating circumstance.

We received a number of suggestions related to life sentences. (1) Eliminate mandatory minimums, for 1st degree murder. Judges should be able to consider the circumstances. (2) Reserve LWOP for serial violent offenders. (3) Replace life

sentences with sentences equal to the age of the defendant to reflect the belief that older people have more experience and should be more responsible. (4) Give special consideration to persons who would be sentenced to life on an "A" prefix. (5) Establish a commutation review board that focuses only on LWOP cases. (6) Eliminate judicial veto during release consideration in lifer cases. (7) Issue life sentences only in cases where it is mandatory. (8) Revive the Michigan Parole & Commutation Board. (9) Use a strict set of guidelines to commute LWOP sentences to LWP, making them fall under the parole board's jurisdiction. Guidelines might include time served (25 years), prison record, staff recommendations (solicited randomly) and nature of the offense (no priors, no serial offenses, etc.)

Provide 1st degree lifers a more realistic opportunity for release, using well-defined criteria such as the grid scores computed in the now-extinct document "Commutation and Long Term Release Guidelines – Homicide" that served to establish a minimum date for release consideration; timely access to RGC recommended programming; annual parole interviews once the minimum consideration date is reached; evaluation of one's insight regarding the crime, acceptance of responsibility, remorse and empathy, feelings about the crime, and programming accomplishments; risk assessments; reintegration plan; psychological evaluations; a requirement that the parole board provide objective detailed reasons for issuing a continuance, accompanied by an explanation of what the prisoner must do to earn release; and a means of appealing a board decision.

Recommendations Regarding A Living Wage

In the May newsletter, we also asked our readers to, "Tell us what you believe a prisoner must earn in a month to provide essential necessities and comforts that are not provided by the MDOC." Not surprisingly, we received a variety of answers, ranging from \$25 per month to \$212 per month. Several suggested that individuals be paid the state minimum wage, while mandating a distribution. For example, 20% would go to restitution, 20% to child support, 10% would be for personal use, 10% would be held until the prisoner goes home, and the remaining 40% would go to general fund for cost of incarceration. Of those who provided a number, more than half suggested the living wage should be between \$30 and \$50 per month. The most popular response was \$50 per month.

One of our respondents directed us to a December 23, 1991, ruling by the U. S. Court of Appeals, Ninth Circuit in 951 F. 2d 1504 - *Gluth v. Kangas* involving the Arizona Department of Corrections. "Under the Department's indigency policy, an inmate may apply for indigency classification if his prison account balance is less than \$12 and his income from all sources during the previous thirty day period has not exceeded \$12. We agree with the district court's conclusion that this policy, which according to uncontroverted facts forces inmates to choose between purchasing hygienic supplies and essential legal supplies, is 'unacceptable.' The uncontroverted facts show that it costs at least \$46 to purchase necessary personal items and legal supplies and that inmates must purchase

hygiene items to avoid punishment under prison regulations. Thus, the inmates have demonstrated that the indigency policy's \$12 threshold, which has been in effect since 1983 and has never been increased, fails to accommodate those inmates who have no money to purchase legal supplies when they are needed."

The variations in suggested living wages were understandable. Some individuals had health issues that require the purchase of over-the-counter medications or extra toilet paper at \$0.73 per roll. (This phenomenon may disproportionately impact the elderly and infirm who are unable to work.) Some individuals regularly call family and/or friends; others do not. Some described special clothing needs that the department does not provide, including socks size 12 and up and shoes for feet that are extra wide. Some have legal costs that include copies, transcripts, filing fees, and postage. More than a few explained that they avoid seeing the doctor, dentist, or optician because of the high cost of the co-pay. Some (especially those housed in the upper peninsula or those with poor circulation) may need to purchase a coat that is warmer than the light-weight one provided by the system.

At the same time, some of the costs were universal. Nearly everyone noted that they had to supplement their diet from the commissary or with Secure Paks. A few cited the quality of the food as a problem; nearly all said the quantity of food was inadequate for anyone who is physically active. Many noted that they had to purchase a shaver and/or beard trimmer when razors were removed from the system; now they must regularly purchase batteries to keep the shaver operating and eventually replace the blade or shaver. Those who are physically active purchase their own athletic shoes, because the state-issued shoes are not designed for that type of activity. All have cosmetic needs that include deodorant, toothpaste, soap, shampoo, dental floss, hair styling products, nail clippers, lip balm, body powder, denture cream, skin lotion, etc. Other frequent purchases include shower shoes, coffee, and salt and pepper shakers. Some try to save for major purchases or in anticipation of release. It is not unusual for someone to have to choose between purchasing cosmetics and purchasing food or metered envelopes.

Quite a few of our readers shared their current wage with us. On a monthly basis, the wages ranged from \$7.58 to \$60. Nearly half reported monthly wages of less than \$20. At least one reported that, despite working, he receives less per month than his indigent bunkie. Others reported that the wages were unpredictable. Many cannot work or attend school if the supervisor or teacher is not working.

A few who wrote to us, took time to help us put things in perspective. "I have to work 2 hours to get a stamped envelope, more than 3 hours to get paper, and a couple more hours to get a pen. I must work a day just to write home!" "Sending a letter costs 37% of a day's pay." "Ramen noodles cost 34¢." (For some, that is more than half a day's pay.)

Electronic items are also available for purchase, but are out of the price range for most people who do not have family

support. Those devices include televisions, tape players, MP3s, radios, etc. Some report that these items are of poor quality, obsolete, and high priced.

The low pay scale has several negative impacts. Poor pay puts a strain on the family. It reduces the contact between family members, places pressure on families to subsidize the incarcerated person, and reduces the standing of the person who is incarcerated. Many have noted that no/low pay is contributing to violence in the system. "Cell robberies/thefts have gone through the roof. Secure-pak robberies have gotten worse too. It's convenient how no staff are present on Thursday mornings when it seems to always happen."

There are several other problems related to the issue of pay. One that can't be ignored is that there are far too few jobs for the persons needing employment. In some cases, the system has created phantom jobs (e.g. wash two windows three times a week) for \$10 per month. There is an occasional timing problem that delays pay until after someone's store date. The worker must then wait 14 days before he or she can go to the store. The minimum deposit for phone calls or the email system is \$10, requiring some to save for several pay periods before they are able to use those systems.

We have provided some historical perspective in past newsletters, but it may be worth repeating that information. Wages in the system have not simply been frozen for 25 years. They have actually decreased. Bonuses are no longer paid to food service and MSI workers. Hours of work have been reduced, partly to accommodate the overcrowding in the system and partly because there has been a reduction in work opportunities. Laundry facilities have been consolidated at a few institutions, increasing the turnaround time for laundry. At the same time, the state-supplied clothing allotment has been reduced. As a result, many have purchased additional clothing in order to be able to wear clean clothing. Incarcerated persons now have to pay sales tax and medical/dental/optical co-pays, which was not the case 25 years ago. Incarcerated persons used to have more influence on what was offered in the commissary and at what price. Now that the state has contracted with Keefe for all commissary purchases, there is no shopping for the best price. Some of the prices are definitely far above what can be purchased in the community and prices are raised regularly. The cost of phone calls increased when the legislature implemented the special equipment fund.

A number of our readers were quick to point out that there are other options to paying a higher wage. Those include:

- Allow incarcerated people to tend their own gardens.
- Allow people to purchase or rent abandoned televisions, radios, etc.
- Allow individuals to purchase MSI socks, briefs and T-shirts along with coats, shorts, and sweat suits.
- Raise the income level at which point 50% of a person's income is confiscated to pay restitution, child support, court fees, etc. (It is currently one-half of all income over \$50 per month.

- Offer commissary products and electronic devices at fair market value.
- Ensure that MDOC contracts offer the best price to the consumer (not the MDOC or vendor), and include no kickback to the State.
- "Buy Michigan!" Keefe, for example, is not a Michigan company.
- Adjust wages for the cost of living.
- Ensure that everyone has the opportunity to work full days.
- Require courts to assess fines, fees, and restitution based upon the ability to pay.
- Provide adequate food and enough time to eat it, so that it is not necessary to supplement one's diet with commissary purchases.
- Provide training in trades for interested persons who wish to earn higher wages.
- Establish gardens at each facility in order to provide more jobs and to provide fresh fruits and vegetables with meals.

The MDOC currently lists hourly wage ranges of \$0.175 to \$0.374. The daily pay rates are listed as ranging from \$0.74 to \$3.34. Hours worked per day and days worked per month vary. If the MDOC is to ensure that prison inmates pay restitution as suggested in Gov. Snyder's May 18, Special Message, a living wage is a must. Incarcerated persons should be responsible for their expenses – not the families who, in many cases are struggling financially.

It is worth noting that a number of individuals believe that incarcerated persons should be fully integrated into the U.S. labor force, meaning they would earn a minimum wage and be given worker's comp, the right to unionize and the right to strike. In fact, that was the conclusion of five top economists who studied the question in the 70s. While we would certainly not object to that approach, providing a living wage for every incarcerated person seems a reasonable place to start.

Source: "It's Time to Pay Prisoners the Minimum Wage," by Josh Kovensky, New Republic, August 15, 2014

MI-CURE BOARD VOTES TO JOIN THE MICHIGAN COLLABORATIVE TO END MASS INCARCERATION

At its meeting on July 2, 2015, the Board of MI-CURE voted to sign on to the Resolution of The Michigan Collaborative to End Mass Incarceration. MI-CURE has participated in the Collaborative since work began on drafting the resolution. In the interest of space, we have omitted the supporting statistics and the related Endnotes and Citations from the summarized resolution below:

The Michigan Collaborative to End Mass Incarceration is a broad-based, statewide, non-partisan collaboration representing non-profit, faith-based, advocacy, grassroots, and service organizations united to end mass incarceration in Michigan. **The Collaborative seeks to create and restore**

healthy communities.

To that end incarceration must be regarded as a measure of last resort for all offenders, with the objectives of achieving a major reduction in the number of persons entering jail and prison, reducing the length of stay when persons are imprisoned, ensuring conditions of confinement that are conducive to genuine rehabilitation and training, and increasing the number of persons who are safely released from jail and prison facilities as well as their preparation and support when returning to their communities.

To facilitate achievement of these objectives, we urge: expanded use of restorative justice and other alternative and diversionary programs; increased mental health and substance abuse services; reform of the indigent defense system; a greater focus on addressing social problems that are at the root of many crimes; reform of sentencing guidelines; elimination of racial profiling, racially-targeted enforcement and other police practices that cause racial and economic disproportionality in prison populations, as well as additional reforms outlined in this document.

WHEREAS, the number of persons confined to prison is growing at an alarming rate that cannot be sustained:

WHEREAS, persons are confined to jails at an even more staggering rate, and money is now the most important factor in determining whether someone is held in jail while their case is pending:

WHEREAS, mass incarceration takes a significant toll on the families of those who are confined to prison or jail:

WHEREAS, mass incarceration disproportionately affects African Americans and Hispanics:

WHEREAS, the criminalization of youth behavior and the school-to-prison pipeline continue to feed juveniles into the criminal justice system:

WHEREAS, the rate of mental illness is disproportionately high among the incarcerated:

WHEREAS, the average length of stay in both prisons and jails has increased markedly over time and resulted in significant costs:

WHEREAS, an objective and transparent parole process will ensure that prisoners eligible for release receive a fair opportunity to reenter the community:

WHEREAS, substance abuse is prevalent among the incarcerated and prison-based drug treatment has shown success in reducing drug use and criminal activity, especially when coupled with aftercare treatment in the community:

WHEREAS, employers report that job applicants who have been arrested, jailed, imprisoned, or paroled have the lowest chances of being hired:

WHEREAS, access to educational programming and productive activities will improve reentry outcomes:

WHEREAS, reentry outcomes will be improved if returning individuals have access to adequate housing:

WHEREAS, in-prison visitation and communication with family and friends helps to build a network of support for the incarcerated:

WHEREAS, recidivism rates can be reduced by investing in research-driven, evidence-based programs and implementing effective community engagement and supervision policies and practices:

THEREFORE, BE IT RESOLVED, that the Collaborative to End Mass Incarceration in Michigan adopts the following goals and objectives to be effective by the year 2020:

- A 50% reduction in admissions to prison and jail through the increased use of diversionary programs that meet the goals of sentencing;
- 75% of the population in each prison facility shall be engaged in productive activities at least 30 hours per week;
- A 50% reduction in the average length of stay of persons admitted to prison through the implementation of sentencing and parole reforms;
- A 50% reduction in the return-to-prison rate for persons released from State prison, through a rededication to the Michigan Prisoner Reentry Initiative Model, which includes full community engagement and community funding control, codified in law.

In order to support the goals and objectives of the Collaborative, attention to public education and reinvestment is required:

THEREFORE, BE IT FURTHER RESOLVED, that:

- In order to correct prevailing misconceptions about incarceration and its detrimental effect on children, families and communities, while promoting a theory of justice founded in restoration, rehabilitation and redemption, and an understanding that the child welfare and juvenile justice systems contribute greatly to adult incarceration, **the Collaborative is dedicated to public education that promotes a safe, fair, and cost-effective justice system.**
- In order to spur investment in neighborhoods most affected by crime and imprisonment, increase the capacity for children and families in those neighborhoods to thrive, and to provide enhanced and expanded services that have a proven impact on crime and recidivism, **the Collaborative will promote fiscal policies that reinvest savings resulting from improvements in the justice system into those communities and neighborhoods most**

affected by crime and imprisonment, particularly low- income and communities of color.

HELP WANTED

Dental Care Litigation:

In the August 2014 edition of *MI-CURE NEWS*, we announced litigation challenging the poor quality of dental health care within the MDOC. The litigation is related only to dental care.

The clinic has recently asked us to provide additional information about what they are seeking. If you have been denied dental care for a long time and you want to have your situation considered, please send a copy (or the original) of any kites that are submitted for dental care after the kite is returned back to you. In addition, the clinic wants to hear from individuals who have had their teeth pulled when being processed through R&GC, and had to wait for approximately two years to get dentures or other care related to the pulled teeth.

Daniel E. Manville
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Director, Civil Rights Clinic
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Presumptive Parole:

HB 4138, better known as the presumptive parole bill, has been introduced and is moving through the Michigan Legislature. Sponsored by Rep. Kurt Heise (R-Plymouth), it would create the presumption that a person will be released on parole if he or she is not deemed to be a menace to society, has a high probability of release, and there are no substantial or compelling reasons to deny release. The bill would not apply to those serving life, nor would it create an expectation of parole for anyone sentenced to prison. During committee consideration of the bill, it was altered to apply only to persons sentenced after the bill becomes effective. There is at least a possibility that the change could be reversed during full House consideration of the bill or during consideration in the Senate. We urge our readers to contact their state senator and state representative to express your views.

Will Pell Grants for Prisoners be Restored?

From 1972 to 1995, incarcerated persons who were not sentenced to death or life without parole could apply for federal Pell Grants to pay for college classes. A provision in the 1994 federal omnibus crime bill reversed the policy, making incarcerated individuals ineligible for Pell Grants. In the 1993-94 school year, incarcerated individuals accounted for less than 1 percent of total Pell Grant recipients. But, the funds made a tremendous difference for those who received funding.

On May 21, 2015, Congresswoman Donna F. Edwards along with U.S. Representatives Danny Davis, Barbara Lee, Bobby Scott, Rosa DeLauro, and Cedric Richmond, introduced the Restoring Education and Learning (REAL) Act that would reinstate Pell Grant eligibility for federal and state prisoners. The only Michigan Congressman among the original cosponsors was John Conyers, Jr.

Please contact your U.S. Representative and your U.S. Senators (Debbie Stabenow and Gary Peters) to express your views on this bill.

NOTE: The Obama administration recently announced that it will be launching a pilot program to provide Pell grants to a limited number of incarcerated persons. The administration will be issuing a request for proposal for universities who want to partner with prisons. It will be focused on people who will be released in the next couple of years. The program will not use funds currently being used for Pell grants

Source: Press Release "Edwards Introduces Pell Grants for Prisoners Bill," May 21, 2015; "Building a Prison-to-College Pipeline," by Russell Berman, The Atlantic, August 6, 2015.

LISTEN! IS THE TIDE TURNING?

Within the past few months, several prominent politicians have made significant, if not surprising, public statements about criminal justice issues. They represent what some may view as a potential change in priorities that could lead to policy changes. Below is a summary of the highlights.

May 18, 2015, Governor Rick Snyder: In a Special Message to Michiganders and the Michigan Legislature, the governor noted, "The annual budget of the Department of Corrections alone is over two billion dollars and our county governments spend millions more. We have a responsibility to spend intelligently on programs that work to promote public safety and reform offenders so that we provide the best customer service to Michigan residents." In the remainder of his speech, the Governor discussed a number of ways the State could reduce incarceration and promote public safety.
Source: "A Special Message from Governor Rick Snyder: Criminal Justice To Michiganders and the Michigan Legislature," May 18, 2015

July 14, 2015, President Obama: In a speech to the annual convention of the NAACP, President Obama focused on the nation's criminal justice systems. The President highlighted the unfairness and waste that is prevalent in these systems. He called for sentencing reforms, for prosecutors to be proportionate, for a review of the overuse of solitary confinement. He suggested prisoners be rewarded with reduced sentences if they complete programs that make them less likely to commit a repeat offense. He said, "We should not tolerate conditions in prison that have no place in any civilized country. We should not be tolerating overcrowding in prison. We should not be tolerating gang activity in prison. We should not be tolerating rape in prison. And, we shouldn't be making jokes about it in our popular culture. That's no joke. These things are unacceptable."

Source: *“The Marshall Project Analysis: Justice and Redemption Go Hand in Hand” July 15, 2015*

July 15, 2015, Former President Bill Clinton: In his speech to the annual meeting of the NAACP, former president Bill Clinton acknowledged that a law he signed in 1994 has played a significant part in warping sentencing standards and has led to an era of mass incarceration. The bill called for longer sentences for federal convictions. Clinton noted, “(M)ost (incarcerated people) are in prison under state law, but the federal law set a trend. And that was overdone. We were wrong about that.”

Source: *“Bill Clinton Concedes His Crime Law Jailed Too Many for Too Long,” by Peter Baker, The New York Times, July 15, 2015*

July 21, 2015, Former Governor William G. Milliken: In an *MLive* guest column former governor William Milliken shared his views on the State’s criminal justice system.

“Over the years, I have watched the size and cost of the Michigan prison population skyrocket, due to so-called ‘tough’ policies that have not kept us safer and have cost our state billions.... As governor, I contributed to the problem by supporting extremely harsh mandatory minimum drug laws in the late 1970s. After it became apparent that the drug laws had not accomplished what either the legislature or I had intended, I then spent years working with organizations to support reforms that were signed into law by Gov. John Engler over a decade ago.

“It is long past time for political leaders of both parties to reverse the remaining criminal justice policies that led to a huge increase in our prison population with no payoff in public safety – and that have cost taxpayers around \$2 billion a year.”

Source: *“William G. Milliken: Time to reverse Michigan’s failed, costly imprisonment policies,” by William G. Milliken, MLive, July 21, 2015*

INDIGENT DEFENSE COMMISSION RELEASES 1st SET OF PROPOSED STANDARDS

On August 18, the Michigan Indigent Defense Commission (MIDC) will take public comments on the first set of four proposed minimum standards for the local delivery of indigent criminal defense services. The first four proposed standards are as follows:

Standard 1 Education and Training of Defense Counsel

The MIDC proposes a minimum standard for the education and training of defense counsel to effectuate Strickland, the MIDC Act, and the Ninth Principle of The American Bar Association’s Ten Principles of a Public Defense Delivery System:

A. Knowledge of the law. Counsel shall know substantive Michigan and federal law, constitutional law, criminal law, criminal procedure, rules of evidence, ethical rules and local

practices. Counsel has a continuing obligation to know the changes and developments in the law.

B. Knowledge of scientific evidence and applicable defenses. Counsel shall know all forensic and scientific issues that can arise in a criminal case, know all legal issues concerning defenses to a crime, and be able to effectively litigate those issues.

C. Knowledge of technology. Counsel shall know how to utilize office technology commonly used in the legal community, and technology used within the applicable court system. Counsel shall be able to thoroughly review materials that are provided in an electronic format.

D. Continuing education. Counsel shall annually complete continuing legal education courses relevant to the representation of the criminally accused. Counsel shall participate in skills training and educational programs in order to maintain and enhance overall preparation, oral and written advocacy, and litigation and negotiation skills. Lawyers can discharge this obligation for annual continuing legal education by attending local trainings or statewide conferences. Attorneys with fewer than two years of experience practicing criminal defense in Michigan shall participate in one basic skills acquisition class. All attorneys shall annually complete at least twelve (12) hours of continuing legal education.

Standard 2 Initial Interview

The MIDC proposes a minimum standard for the initial client interview to effectuate the MIDC Act and the Fourth Principle of the American Bar Association’s Ten Principles of a Public Defense Delivery System:

A. Timing of the Interview: Counsel shall conduct a client interview as soon as practicable after appointment to represent the defendant in order to obtain information necessary to provide quality representation at the early stages of the case and to provide the client with information concerning counsel’s representation and the case proceedings. Counsel shall conduct subsequent client interviews as needed. Following appointment, counsel shall conduct the initial interview with the client sufficiently before any court proceeding so as to be prepared for that proceeding. When a client is in custody, counsel shall conduct an initial client intake interview within 72 hours of appointment. When a client is not in custody, counsel shall promptly deliver an introductory communication so that the client may follow-up and schedule a meeting.

B. Setting of the interview: All client interviews shall be conducted in a confidential setting. Counsel shall ensure that confidential communications between counsel and the client are conducted in private. Counsel and the indigent criminal defense system shall ensure the necessary accommodations for private discussions between counsel and clients in courthouses, lock-ups, jails, prisons, detention centers, and other places where clients must confer with counsel.

C. Preparation: Counsel shall obtain copies of any relevant documents which are available, including copies of any charging documents, recommendations and reports concerning pretrial release, and discoverable material.

D. Client status:

1. Counsel shall evaluate whether the client is competent to participate in his/her representation, understands the charges, and has some basic comprehension of criminal procedure. Counsel has a continuing responsibility to evaluate the client's capacity to stand trial or to enter a plea pursuant to Mich. Ct. R.6.125 and M.C.L. §330.2020. Counsel shall take appropriate action where there are any questions about a client's competency.

2. Where counsel is unable to communicate with the client because of language or communication differences, counsel shall take whatever steps are necessary to fully explain the proceedings, including seeking the appointment of an interpreter to assist with pre-trial preparation, interviews, investigation, and in-court proceedings, or other accommodations.

Standard 3 Investigation and Experts

The MIDC proposes a minimum standard for investigations and experts:

A. Counsel shall conduct an independent investigation of the charges and offense as promptly as practicable.

B. When appropriate, counsel shall request funds to retain an investigator to assist with the client's defense.

C. Counsel shall request the assistance of experts where it is reasonably necessary to prepare the defense and rebut the prosecution's case.

D. Counsel has a continuing duty to evaluate a case for appropriate defense investigations or expert assistance.

Standard 4 Counsel at First Appearance

A. Counsel shall be assigned as soon as the defendant is determined to be eligible for indigent criminal defense services. The indigency determination shall be made and counsel appointed and made available to provide assistance to the defendant as soon as the defendant's liberty is subject to restriction by a magistrate or judge. The representation includes, but is not limited to, the arraignment on the complaint and warrant or the setting of a case specific interim bond while defendant is in custody. Nothing in this paragraph shall prevent the defendant from making an informed waiver of counsel.

B. All persons determined to be eligible for indigent criminal defense services shall also have appointed counsel at pre-trial proceedings, during plea negotiations and at other critical stages, whether in court or out of court.

AFSC HAS MOVED

For those of you who correspond with the American Friends Service Committee, please note that they have moved. Their new address is 124 N. Pearl Street, Suite 607, Ypsilanti. MI 48197.

WITH SYMPATHY

Since publication of our last newsletter, we have learned of the deaths of MI-CURE members and supporters Laverne Bivens, Diane DeKeyzer, and Robert Higgins – 108987.

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