

The U.S. spent \$185 billion for police protection, detention, judicial, and legal activities and employed 2.4 million people in its justice system

The New Jim Crow
Michelle Alexander

CURE-ARM



Volume 2, Issue 2

Spring 2015

Citizens United for the Rehabilitation of Errants—
Adherence to the Rehabilitative Mandate

PRESUMPTIVE PAROLE LEGISLATION FOR POSITIVE CHANGE

by: Ken Seguin

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The promised legislative update from our last newsletter is included in this issue. Two bills, in particular, directly relate to CURE-ARM's platform issues and mission statement - Compassionate Release and Presumptive Parole. We will be doing all we can to help in the passage of effective legislation for this.

I applaud Rep. David Rogers in sponsoring **An Act to Promote Public Safety by Improving the Parole Process—HD3227**. And I thank Prison Legal Service for their pledge to advocate for

this bill focused on a presumptive parole system.

We are a long way from this bill moving forward on the legislative docket and not being buried and forgotten. Without

legislatures **CONSTANTLY** hearing about the need for a presumptive parole system and being convinced of the great benefits of such a change to the Parole Board directives, this bill will not pass.

In 1980 only 1% of all prison admissions were parole violators, 20 years later 35% of prison admissions resulted from parole violations.

Bureau of Justice Statistics

At face value, it seems a nice piece of legislation for having more of the convicted phase out of prison and into society with the supervision and guidance of a parole officer during the most volatile time of his/her

reentry to society from the polluted culture of prison that exists in Massachusetts.

The troubling question I have is— will the language of this bill result in the spirit of this bill becoming a reality?

(continued on page 2)

MASSACHUSETTS DEATH PENALTY "Still in Full Force"

by: Timothy J. Muise

Herbert Earl had been in prison for 40 consecutive years when he became stricken with stage four terminal cancer. Mr. Earl was serving a "parole eligible" life sentence for very serious crimes and the Mass. Parole Board had long ago determined him "not suitable for parole." Those Playing God type of decisions are a story for another time. The story here is that Earl Herbert was sentenced to death just as sure as when Mass. had an electric chair prior to 1972.

The death penalty here in the Commonwealth is still in full force.

In his later years, Herbert Earl came back to the Catholic Church. He sought out the Sacrament of Reconciliation and made his long overdue confession. This was before the cancer diagnosis. After the stage four diagnosis Mr. Earl was "banished", for "being sick" to the killed Nursing Facility here at the state

Please support the efforts of Sen. Pat Jehlen and Rep. Tim Toomey who are sponsoring S01417 Medical Placement of Terminally Ill or Incapacitated Inmates

prison in Shirley. What this means is that he would never again see his prison friends, would never again be allowed to go to Church in the prison Chapel, and it means that he would be hidden away from view of others where prison officials could do as they may with him; and they sure did.

Herbert's cancer was very aggressive and painful. At first the prison afforded him adequate pain management, but as the disease progressed and Mr. Earl became victim to unbear-

Changing the culture of an organization is difficult. Josh Wall had taken the culture of a punitive criminal justice system to a new height in decreasing paroles, decreasing graduated sanctions, increasing parole revocations, and changing the internal operations on how parole decisions are made.

Increasing public safety by denying more paroles was a misnomer of Wall's. It resulted in (1) more people being released from prison with NO supervision, (2) creating a greater threat to public safety while (3) paving the path for the Wall's career growth in being appointed a judgeship by our past governor who had his head stuck in the sand.

such a classification level. The D.O.C. has a non-discretionary override which dictates any loss of life crimes never go to lower than medium security. The Acts of 2014 eliminated non-discretionary overrides for juveniles but still left discretion for D.O.C. to override a qualifying juvenile lifer to go to lower security. So, policies were changed on paper, but operations remained the same based on the D.O.C. thinking. A law was passed with good intentions but the reality remained the same— not one juvenile lifer (who hasn't been paroled) has been granted a minimum move.

The shift in personnel could be achieved in decreasing D.O.C. maximum security beds and increasing minimum security beds. For the presumptive parole model to succeed, it would require the D.O.C. to be true to their classification system and move individuals down in security when they qualify. The C.O. to inmate ratio is far less at lower security and thus resources could be shifted from D.O.C. to Parole to increase field officers without increasing the Public Safety budget.

CURE-ARM has contacted Rep. Rogers and PLS and will be doing all we can for this to be effective legislation that is passed. It will also require you to call, write, and e-mail your legislators to move this bill forward. We will continue to keep you informed.

Without a legislative change to the operation of parole, the system will remain broken. †

So if this presumptive parole effort in HD3227 does not state specific reasons for not paroling an eligible candidate (i.e. assault on staff, confirmed drug use while incarcerated, multiple violent altercations), then the Parole Board will continue to be a political organization making decisions that best ensure their careers.

Further, for a presumptive parole system to be effective, the number of parole field officers would have to be increased. The current ratio of parolees to field officer was in Massachusetts. Increasing parole field officers is much higher than the national average.

"When released, ex-cons transfer from a cell to a much larger, invisible cage The period of invisible punishment."
Invisible Punishment: The Collateral Consequences of Mass Imprisonment
Marc Maurel & Meda Chesney-Lind

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Thank you to the hundreds who have sent in comments, we are in the midst of getting a website manager and are tardy on your responses. Be patient.

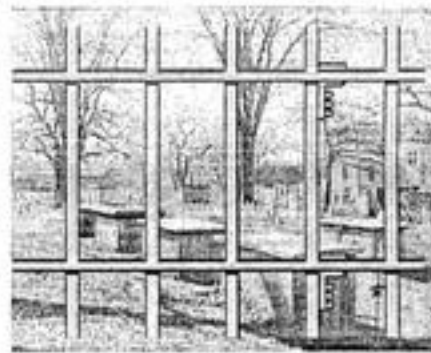


MASSACHUSETTS DEATH PENALTY "Still in Full Force" (continued from page one)

able pain and the prison told him that he had reached his limit in pain management services. The end result was that Herbert Earl grimaced in pain each and every day for several months. He desperately reached out to prison officials and their response proved as sadistic as I knew it would be; they said they would "write a letter for him." Unbelievable!

During the week of Divine Mercy I was fortunate enough to get a Catholic Priest to come to the prison and hear confessions. He also volunteered, with the Catholic Chaplain here, to go and celebrate the Holy Mass up in the "Skilled Nursing Facility" and I was blessed to be able to go along. This is when I saw Herbert Earl, who I used to see each

week at Church, but had not seen in close to a year as he was locked away in the hospital. When Herbie saw me he did his best, in his low dying voice, to call me to his bedside. He told me he needed to go to the "end of life" unit at Lemuel Shattuck Hospital as his current pain was unbearable and the prison would do nothing. He showed me a "letter" one of the Deputy Wardens had written for him and he said, "I don't trust her Timmy, can you reach out for me?" A request from a dying man which could not be ignored.



On April 8, 2015, I reached out to Deputy Commissioner Thomas Dickhaut and asked him to move Herbert Earl to the end of life unit at the D.O.C.'s hospital where his pain could properly be managed. On April 16, 2015, MCI Shirley Warden, Kelly Ryan, wrote me stating in part, "I thank you for your concern, as you are aware, inmate Earl is receiving 24 hour medical care." On Friday, April 17, 2015, 24 hours later, Herbert Earl died in that bed in the Skilled Nursing Facility, doubled over in pain, and Rome Burned as Nero Fiddled....

We need compassionate medical release vehicle here in Massachusetts. Please help us bring that to fruition by supporting our efforts. †

**NEWS FROM MCI FRAMINGHAM
WOMEN IN PRISON**

by Shawn Fisher

Back in February Diane Sawyer aired a special edition of 20/20 entitled, "A Nation of Women Behind Bars." She began the episode with a startling fact—there are over 200,000 women behind bars in the U.S. Massachusetts houses approximately 600 of these women in one prison called MCI Framingham. To many they are a forgotten population. Something we at CURE-ARM would like to change.

The women in Framingham face many of the same challenges as their male counterparts. The same inept D.O.C. administrators who make capricious policy changes with absolutely no benefit to rehabilitation.

Most recently, MCI Framingham started a mandatory program called "Pathways to Change". Every inmate completed a survey and based on the results over one third of the

population was "uprooted and moved to a unit that best suited their needs" explains Nancy, a prisoner in Framingham. Unfortunately the "survey" has many women in units that DO NOT address their needs. For example, in one unit called "Laurel" some 45 prisoners are serving life, or long-term sentences yet are placed in "re-entry" sessions. Maybe the thinking is to prepare them for reentry into another of the prison housing units??



Another lady from Framingham writes that program certificates will no longer be awarded: same as the men's prisons. According to her, the superintendent stated, "No certificates for the girls who stack them for parole." With recidivism at 45% I can see how this will improve that number!

The bottom line is, this is not a

MCI FRAMINGHAM	
Statistics as of 7/14	
Design capacity =	452
Operational Capacity =	588
Facility Count =	657
Sentence Length	
<1 - 3 yrs	46%
3 - 6 yrs	18%
>6 yrs	22%
Life sentences	14%

gender issue, it's a state-wide issue that effects the overall national issue that the prison system is backwards and is need of SERIOUS changes that meaningfully address the rehabilitation needs—not something "new" that looks good on paper but only serves to disrupt the incarceration of a prisoner. Otherwise, you can expect the national recidivism rate of 68% continue to rise while tax dollars are wasting away in ineffective prison systems. †

A RESPONSE FROM THE NORFOLK LIFERS GROUP “DEMAGOGUES WE ARE NOT”

by: Gordon Haas

In the last issue of this newsletter assertions were made concerning the activities of the Norfolk Lifers Group. I feel compelled to respond as the integrity of the group and our members was brought into question.

The genesis of the controversy was a letter I sent to CURE-ARM, as did our Vice-Chairman, concerning a prior article calling into question the quality and/or effectiveness of the efforts of Prison Legal Services (PLS) and Leslie Walker, its Executive Director, on behalf of all prisoners. One point of that article was that PLS “has taken upon itself to represent the prisoner without spending time talking to prisoners.” In my letter to CURE-ARM, I cautioned against lashing out at those perceived by legislators and potential supporters as one of our friends or allies. I asked: How would potential supporters view it when a perceived friend or ally is attacked? Why would anyone seek to work with us, if the result may be to be castigated in print?

In addition, I pointed out that if the major complaint was that PLS, and specifically Leslie Walker, failed to consult with prisoners before speaking out on prisoner issues, which prisoners and/or groups were consulted before the article was printed since it had been written on behalf of all prisoners? The response, as published in *The Wartime General* article from the Winter 2015 edition of this

newsletter was that we (the Norfolk Lifers group), at least, were not consulted and “that by design. I [Tim Muise] knew their answer would be; let’s sing Kumbayah.”

It is simply a plain fact that PLS is going to be seen and consulted as a resource on prison issues, particularly by legislators (whom PLS lobbies on behalf or against legislation affecting us) and the media. PLS has its agenda as do the Norfolk Lifers Group, as well as does CURE-ARM. While those agendas are not the same, and need not be, they do need to be complementary. PLS may well be faulted for not communicating sufficiently with CURE-ARM and the prisoners at Shirley Medium who are working so hard to effect much needed changes in the deplorable treatment of chronically ill, disabled, and elderly prisoners. We applaud that work. More importantly, they need the support of everyone, prisoners in all institutions—particularly lifers, as well as those who work on our behalf on the outside. What is not needed is the denigration of the efforts of others.

The Norfolk Lifers Group has been working for lifers and long-termers—at Norfolk as well as in other MA institutions—for over forty years. We produce reports (many can be found on www.realcostofprisons.org), prepare program proposals, and assist members in parole hearings, to name a few of our activities. We stand behind our work. We surely have not always been right, but we have never ceased to be

involved, with our “necks on the chopping block.”

All “assets” need to be brought into the fight, for whatever they can contribute. No one person nor group can do it all. Effective leadership requires working with all interested and involved parties, understanding their individual strengths and weaknesses, and then utilizing what they may offer.

I found it most interesting that we were faulted for our “demagoguery.” We have been called many things, but never being demagogues. I would point out that working together, however, does require parties to communicate with one another and to at least listen to disagreements. Who knows, perhaps we will learn something and move forward. We surely will not if we spend our time and resources disparaging each other.



Send your comments/feedback to

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RESTORATIVE JUSTICE- A Step in the Right Direction

...and miles to go before I sleep, and miles to go before I sleep

by: Ken Seguin

New Zealand does not have a CRIMINAL justice system but a RESTORATIVE justice system nationwide. This is justice that looks to resolve crime through the involvement of three parties—the victim, the community, and the offender in such a way that all three parties are satisfied and in agreement in restoration from an offense. Responsibility is admitted, consequences to all parties are understood, and restoration actually occurs. In Massachusetts, there are just two parties—a criminal and the state. And the state looks to punish the criminal; end of story. Restoration, rehabilitation, healing—it exists in rhetoric only unless there are exceptional steps taken by victims or offenders.

The Courts, the D.O.C., the Police, and the Parole Board all have victim services units- as they should. The focus is not always on healing but rather helping the victims to convict offenders and keep them incarcerated for as long as possible.

Restorative justice models work toward victim/offender dialogues when both parties agree to such. And it must always be victim initiated as they were the aggrieved party.

The Massachusetts D.O.C. victim services unit has provided such a victim/offender dialogue avenue for victims who so

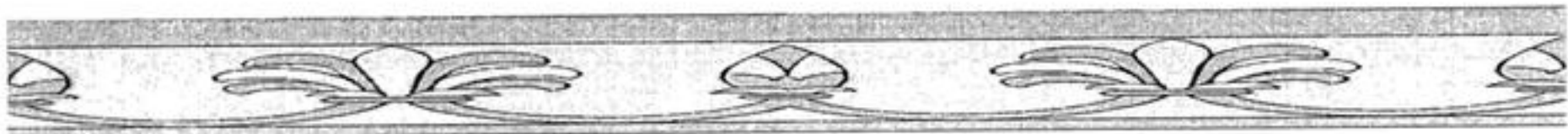
choose. This was started in 2007. To date, only seven victims have asked to participate and they were all family of murder victims. In contrast, Texas had 352 victim/offender dialogues last year alone (it is also a much larger prison system).

I believe part of the reason for a minimal participation is a lack of effort to educate and counsel victims about the power of healing and reducing bitterness, hate and, wanting retribution. This is not to minimize the offense but rather to move the grief process forward. Right now the principle activities of the D.O.C. victim services unit which employs five individuals is to assure someone is a victim or victim's family member and keep them informed of a prisoner's transfer, change in security, death, or pending release. Should someone go on-line to the D.O.C. website and read the *Family and Friends Handbook* or call the victims services division and specifically ask about restorative justice efforts or victim/offender dialogue, they would find out such services are available. But this rarely happens as is indicated in only seven such mediations in eight years. Further, mediation is provided from a volunteer trained in victim/offender dialogues and not funded by the D.O.C.. Why? Because the cul-

ture promotes a punitive approach to corrections.

I applaud the Victim Services unit for starting down a restorative justice alternative model. I applaud them for going to some victim services organizations in society to inform them of ALL that is available, including victim/offender dialogue. And CURE-ARM hopes that a punitive only culture begins to migrate toward true restoration of all parties affected by crime. The system must change.

Evidence that the system has miles to go before there is change was displayed in the 2014 Restorative Justice Forum that took place at MCI Norfolk which received good press coverage from the New York Times but ZERO coverage in any major Massachusetts publication. And the governor himself attended part of the Restorative Justice Forum! As far as I know the D.O.C. press secretary did nothing to promote the event. And yet back in 2008, when I was sent out of MCI Norfolk to MCI Shirley, the Lifer's Group Secretary notes I had were sent to the press to promote the crimes of us officers of that group. "Promote the crime, not the rehabilitation" is the mantra of the D.O.C. and that has to change!†





Send your comments/feedback to

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- Ken Seguin.....Outreach Cord.
- Miguel Lozada.....Steering Com.



CURE-ARM MISSION STATEMENT

The Commonwealth of Massachusetts has a very unique distinction in that General Laws of this state **MANDATE** that prisoners be rehabilitated as stated under the Powers and Duties of the commissioner of Corrections, M.G.L. 124 § 1(e):

- In addition to exercising the powers and performing the duties which are otherwise given him by law, the commissioner of corrections, shall: ...*
- (e) establish, maintain, and administer programs of rehabilitation, including but not limited to education, training and employment, of persons committed to the custody of the department, designed as far as practicably to prepare and assist each person to assume the responsibilities and exercise the rights of a citizen of the Commonwealth.*

It is apparent to our organization that the Department of Corrections has engaged in efforts to usurp the legal mandate to rehabilitate here in the Commonwealth of Massachusetts. The Massachusetts special interest group of CURE-ARM will work toward the melioration of that failure in accordance with justice and the enhancement of public safety.

Our Platform Issues are:

- ◆ Re-establish a viable commutation system in Massachusetts
- ◆ Enacting a presumptive parole system focusing on managed successful reintegration to society as well as motivated and effective rehabilitation during incarceration
- ◆ Working toward the implementation of compassionate medical releases dovetailing into viable commutations and effective parole with more cost effective management of the D.O.C. medical budget.
- ◆ Effective use of the Massachusetts Department of Corrections medical budget which is the 2nd largest portion of their budget. Cost effective preventative care is the goal.
- ◆ Work toward realization of the mandated duty that the D.O.C. focus on care and custody that promotes successful reentry and goes beyond a predominant focus of security-only.

LEGISLATION UPDATE

by: Ken Seguin



The following prison-related bills that will be given permanent bill numbers and posted on the Legislature's website at <https://malegislature.gov/Bills> follows:

- ◆ **SD1001/HD2089 Promoting Restorative Justice Practices** Rather than being criminally tried, special cases would be referred to community-based restorative justice programs for mediation between victim/community/law enforcement/oppressor. This would largely be 1st time offenders of non-violent crime.
- ◆ **SD1770/HD1921 Eliminating Mandatory Minimum Sentencing for Drug Offenses** Gives discretionary sentencing back to judges and allow for proper treatment of non-violent drug offenses.
- ◆ **SD1875/HD3425 Justice Rein-**

vestment Act Would allow for terminally ill prisoners to be supervised outside prison (also SD1417 **Medical Placement of Terminally Ill or Incapacitated Inmates**), see related article on front page of this newsletter) eliminate mandatory minimums and loss of driver's license for drug offenses while providing job training, transitional jobs, youth jobs and pre-apprentice programs.

- ◆ **HD3327 Presumptive Parole** (see article on front page of this newsletter)
- ◆ **HD1059 Parole Board** being expanded from 7 to 9 people with a minimum of 3 members of a psychiatry, psychology, social work, or sociology background. To allow for more timely decisions from the board.

◆ **HD481, HD781 Innocence Commission** look into when and why innocent people are arrested, convicted, and incarcerated.

◆ Several bills restricting, reforming, and/or studying **Solitary Confinement**.

We should know that because these bill proposals were docketed, it does not mean they will ever get to a vote in the House or Senate chambers. The "HD" or "SD" numbers must first be assigned a "HB" or "SB" official number as bills. Then they will go to the Public Safety Committee for recommendation. This is when we want to start calling members of that committee to move the bill along for vote before June 30th. After June 30th the legislative summer recess starts. †