

Summer- Fall-2022

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Director's Corner

Dear Friends,

After 14 years of serving as a volunteer with Virginia CURE and having reached the age of 81, I am ready to retire from my position as Director of Virginia CURE, come March 2023. My journey with Virginia CURE began with the incarceration of a family member who has since gotten his life in order and of whom our family is proud. It was through this experience, that I was exposed to the complexities and injustices within our criminal justice system. Through Virginia CURE, I have met many wonderful people, incarcerated, formerly incarcerated, and others who advocate for justice and are committed to increasing community safety. I would encourage anyone who cares about these issues to become involved. We're currently searching for someone to take my place as Director. If any of you are interested in volunteering with VACURE, please contact me at carla4vacure@gmail.com to learn more.

Carla

Pell Grants are Reinstated for Prison Education in 2023

The Pell Grant, the largest grant program offered by the Department of Education to undergraduate students, will be reinstated for use again in Federal and State prisons. The [FAFSA \(Free Application for Federal Student Aid\) Simplification Act](#), passed at the end of 2020, ending a 26 year ban of Federal funds being used for incarcerated students education. The ban is estimated to end in June of 2023, which will allow incarcerated students to apply for 2023-2024 school year.

The reinstated Pell program will also include new rules for colleges and institutions to follow. Prison education programs will have oversight by the U.S. Department of Justice's Bureau of Prisons at the federal level, and at the state level, the state corrections agencies and the municipal governments will evaluate the programs. . "The significance of the move cannot be overstated," said Margaret diZerega, director of the Vera Institute of Justice's Center on Sentencing and Corrections, "Once implemented, the universal Pell program will "have tremendous impacts in terms of improved safety during incarceration and after incarceration, increasing opportunities for people post-release, and helping people to gain the skills and knowledge they need to take care of their families."

UVa's Innocence Project achieves third exoneration involving corrupt ex-detective

After more than two decades of maintaining his innocence after a murder conviction, Norfolk native Gilbert Merritt III was officially exonerated last week as a result of years of effort by the Innocence Project at University of Virginia Law. Merritt was released from prison in January on a conditional pardon and was formally exonerated on July 11. The clinic expects Governor Glenn Youngkin to vacate Merritt's conviction, which would make the exoneration official and prevent any future appeals to his freedom *Sidney Shuler, Daily Progress.com*

Justice Department Releases Guide to State Voting Rules That Apply After Criminal Convictions

The Justice Department has announced the release of a guide to the state voting rules that apply after criminal convictions. This document is designed to help citizens who meet the age and residency requirements to understand how the state-by-state rules about voting after a criminal conviction could apply to them. Who keeps the right to vote and who can regain that right — and how — differs from state to state, and it depends on state law. This guide walks readers through a series of questions to help them understand how each state’s laws work. And it gives information about how to reach officials in a particular state if someone wants to register to vote or if they have additional questions.

“The right to vote is the foundation of American democracy and it is critical for returning citizens to have reliable information concerning what voting rules apply after a criminal conviction,” said Assistant Attorney General Kristen Clarke of the Justice Department’s Civil Rights Division. “The right to vote affirms returning citizens’ membership and belonging in the broader community. And it helps to ensure that the communities to which they belong have a meaningful opportunity to elect representatives of their choosing.”

The department originally gathered the information here in response to Section 9 of Executive Order 14019 on Promoting Access to Voting, which was issued by President Biden on March 7, 2021. Among other things, the executive order directed the Attorney General, as part of the reentry process for citizens in federal custody, to “provide educational materials related to voter registration.”

This information will be available through justice.gov/voting. Complaints about discriminatory voting practices may be reported to the Civil Rights Division through the internet reporting portal at <https://civilrights.justice.gov> or by telephone at 1-800-253-3931.

Control Over Contraband Devices Eludes Prison Authorities

Correctional administrators across the country are failing to curb the growing use of contraband cell phones in prisons and jails—some of them smuggled inside by correctional staff themselves, according to an Urban Institute report. The report, released recently, examined what it called “interdiction technologies” used to detect and combat a spike in contraband cell phone use during the pandemic, noting that an average 31 stolen devices were recovered per prison in 2018, ... The problem has already been widely reported... When a Texas prison system stopped visits and limited mail to combat the surge, [it was] found that drugs, alcohol and cell phones got in anyway, ferried by facility employees.

In the Urban Institute report, researchers discussed a number of phone disabling technologies. There has been an increased call for jamming technology in prisons over the past year, but the FCC largely bans the tech, citing interference it causes for essential services like 911, GPS and police radio. The same issues for emergency phone routing can occur with Managed Access Systems, or MAS, that create a prison-exclusive cellular network. The Urban Institute report explains that jamming has a number of potential issues: New Zealand has had jammers in all of its prisons since 2009, but inmates have continued to post pictures and videos from contraband cell phones. And, more worrying, when Brazil implemented jammers at one of its prisons, it impacted the cell service of 200,000 neighboring residents. The report also discusses a number of new technologies that show promise but are also very costly.

Some facilities have focused on reducing demand for contraband cell phones by increasing inmate access to tablets and other devices or through general expanded access to loved ones. Other states have upped criminal repercussions for smuggling—or owning—a contraband phone to push back on use. “Despite the widespread availability and use of these technologies in correctional settings,” the authors wrote, “there has been little empirical research on their efficacy and officials do not yet know what returns they can expect on their investments of resources and staff.” *The Crime Report, July 2022*

Fluvanna Correctional Center for Women still failing to provide *adequate health care*

Even though a suit was settled in 2016 on the condition that prison officials deliver on a number of reforms, prisoners say they still struggle to access medical care. Virginia prison officials are not compliant in two of 14 assessment areas and only partially compliant in another four assessment areas, according to the court-appointed monitor's most recent report, filed in June. The department has challenged the monitor's findings in court filings and in statements to The Appeal.

In a June report, the court-appointed monitor found that VADOC had not yet made a number of promised changes to its health care services. As part of his investigation, the monitor spoke with 12 women incarcerated at the prison. Four reported that when they used the call button in their cells, security staff was delayed in responding or did not respond at all. Two women said that they or a cell mate had to urinate or defecate in bags when no one responded, because most cells at the prison do not have toilets. Five women reported they'd been given the wrong medication and were given the proper medication after they pointed out the error to the nurse. In declarations to the court submitted by attorneys for plaintiffs in the class action suit, women at FCCW say medical providers treat them with hostility, belittle their symptoms, and delay necessary care. Women at the prison say a punitive and hostile culture permeates medical services at FCCW. *Elizabeth Weill Greenberg, Aug 2022*

Suit against VDOC use of solitary confinement

This September, the American Civil Liberties Union of Virginia asked a federal judge in Big Stone Gap to certify the expansion of a lawsuit against the Virginia Department of Corrections and its administrators over segregated housing. Currently, 12 plaintiffs who spent extended periods of time incarcerated in what the ACLU calls "solitary confinement" are seeking damages for alleged violations of their constitutional and statutory rights. The suit alleges that prison officials have knowingly and without good reason subjected incarcerated individuals to cruel and unusual punishment by keeping them in prolonged solitary confinement. The plaintiffs in the suit will ask that the case be certified as a class-action lawsuit. If the court rules in their favor, the number of individuals who could be entitled to relief would expand to include anyone incarcerated under certain conditions at two supermax prisons in Wise County since 2011.

The lawsuit was initially filed on May 2019 on the behalf of William Thorpe and several others who experienced long-term segregated housing at supermax facilities Wallens Ridge or Red Onion. The ACLU, the Virginia Coalition Against Solitary Confinement, and human rights activists worldwide refer to this practice as solitary confinement, and there is widespread agreement among health and human-rights professionals that the practice is inhumane; that deprivation of human contact can deteriorate an individual's mental and physical well-being within just a few days.

Virginia prison officials have argued that the practice doesn't qualify as solitary confinement. VDOC guidelines assert that solitary is 22 or more hours of isolation in a cell without meaningful interaction with others. VDOC said those removed from the general population because of behavior issues are in isolation for the safety of prison staff and other people who are incarcerated, and that they are kept in individual cells for no more than 20 hours each day. The department said the isolation is part of its restorative housing program (formerly called restrictive housing), which grants incarcerated people access to therapeutic programming and allows them to earn their way back into the general population.

A key component of the department's restorative approach is the Step-Down program, which gives people who are incarcerated the opportunity for journaling exercises and group discussion with trained experts. One person, who spent time at super max facilities stated that "they go by their own rules" and that while the Step-Down program might be well-intentioned and could be helpful for those housed in lower security prisons, "They act like they're following that, but they really don't." The VDOC defends its practices and cites awards it has received for its programs.

Good news from the Supreme Court

“In *United States v. Taylor*, the Supreme Court narrowed the definition of a "crime of violence" under 18 U.S.C. § 924 by holding that an attempted Hobbs Act robbery is not a crime of violence. As a result, the mandatory minimum from the gun statute could not be added to Mr. Taylor's sentence for attempted Hobbs Act robbery. This case is one in a line of many in which the Supreme Court has continued to narrow the scope of a "crime of violence" under 18 U.S.C. § 924.

In another case, *Conception v. United States*, the Supreme Court ruled that when a district court is deciding whether and how much to reduce an individual's sentence based on outdated crack cocaine punishments, it may also consider other changes in fact and law that took place since the original sentencing.

Conception is an important sentencing case because the opinion is a ringing endorsement of broad judicial discretion in sentencing and re-sentencing proceedings. FAMM has advocated for broad judicial discretion in sentencing related proceedings before the courts, before the United States Sentencing Commission, and before Congress. Judicial discretion is central to our argument about the danger of mandatory minimum sentencing, which strips judges of any and all discretion to set an individualized punishment.” *From Families Against Mandatory Minimums*

Brennan Center for Justice Report: Revenue over Public Safety

Nearly all 50 states and the federal government have sought to reduce imprisonment and mitigate its harms. A remarkable wave of legislation has shortened custodial sentences and widened eligibility for sentences served in the community, yet the impact of these efforts has been relatively modest

One explanation can be found in the infrastructure erected to support the United States' reliance on imprisonment as the country's primary crime control policy. Mass incarceration did not result simply from increased policing and harsher criminal penalties. Economic and financial incentives established by local, state, and federal agencies also played a role. Police, prosecutors, and corrections agencies competed for these benefits by escalating their enforcement practices. Law enforcement came to depend on these funding sources, particularly as declining tax receipts and intergovernmental transfers left them grasping to fill budget holes.

- **User-funded justice.** Through mechanisms such as civil asset forfeiture, fines and fees, and privatized community supervision, the very people subjected to criminal enforcement activities are routinely made to contribute to the cost of their being arrested, detained, charged, prosecuted, supervised, or incarcerated. Law enforcement officials and agencies reap the benefits while those trapped in the system struggle to pay.
 - **Correctional and detention bed markets.** Officials seeking to alleviate prison and jail overcrowding by renting space from other jurisdictions have created a market in incarcerated people. The federal government has exacerbated this demand for bed space, particularly through stepped-up immigration enforcement. Fiscally distressed counties have seen this market as a solution to their budget woes, often expanding their jails to serve it. Incarcerated people, meanwhile, are reduced to dollars and cents in this rent-seeking ecosystem of carceral institutions seeking to maintain or grow their operations.
 - **metrics.** Police departments and prosecutors' offices reward staff for meeting productivity-based job metrics, such as arrest quotas and high conviction rates, and penalize those who fall short. With their job security and career advancement at stake, law enforcement officials are incentivized to pursue punitive measures even when leniency might be more appropriate.
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The array of perverse incentives in the criminal legal system makes unwinding mass incarceration extraordinarily difficult. A comprehensive approach will require an all-out mobilization by Congress, state legislatures, local governments, and law enforcement agencies. To decrease the number of people under correctional control, policymakers must unravel these deeply embedded economic incentives. At the same time, dissuading public safety agencies from preying on the very people they are charged with protecting will require that they be adequately and equitably funded. This report maps out the perverse incentive structures that have helped perpetuate the United States' overly harsh system of punishment and outlines reforms that can eliminate, change, or realign them, moving the country toward a more fair and just criminal justice system

Parole Grants 2022

<u>Month</u>	<u>Regular</u>	<u>Geriatric</u>	<u>Total</u>
Jan	7	3	10
Feb	3		3
Mar	0		0
Apr	1	1	2
May	1		1
Jun	0		2
Jul	9		2
Aug	0		0
Sep	6	1	7
Oct	5		5
Nov	0		
Dec	1		1

Parole transparency bill signed in April

Senate bill 5, patroned by by Senator David Suetterlein (R-Roanoke) called for more transparency surrounding decisions by the Virginia Parole Board. A bill he introduced to address that issue has been signed by the Governor. Senate Bill 5 provides that all votes by individual members of the Parole Board are public records and subject to the Virginia Freedom of Information Act. This bill was in response to an issue that arose last year in which a number of legislators became angry at the Board for releasing a prisoner that they felt should not have been released. Although the bill will make it easier for CURE to obtain voting data, we fear that it will discourage members from granting paroles.

Virginia prison agency expands addiction treatment program for on people on probation

Virginia is expanding addiction treatment services for people on probation by the use of buprenorphine in some community corrections programs, including Chesterfield field County's women's program. Buprenorphine is taken as a replacement for heroin and methadone dependence. It relieves withdrawal symptoms and decreases cravings for opioids. It affects the same parts of the brain as opioids do, but is easier to manage and has milder side effects.

A Note About Letters to Virginia CURE

Thank you for your interest in VACURE. We look forward to working together to improve Virginia's criminal justice system. Virginia CURE is an all volunteer organization. We depend on volunteers. to answer mail, help with the newsletter, maintain the mailing list and help with special events. We care about your concerns and appreciate being kept informed, however; when you send letters, please keep the page count to a minimum, as letters take time to read and process

Please send mail to: Virginia CURE. PO BOX 2310, Vienna VA 22183 Please do not send legal papers .

ACLU Plans to Appeal Rejected Sentence Credit Lawsuit

The Anderson v. Clarke lawsuit the ACLU submitted to challenge the July's budget amendment which stops good time credit being applied to individuals convicted of violent offenses, has been rejected by Albemarle Courts. Geri Greenspan an attorney of the ACLU, stated the judge determined that the 2020 bill and the June 2022 budget language "should be read in combination, and that the budget item should therefore apply retroactively, and that the General Assembly must have intended for the budget item to be applied retroactively to time served before the effective date." The ACLU has plans to appeal the decision to the Supreme Court of Virginia.

The VDOC stated the 2020 law's effective date wasn't until July 1, 2022, "no changes could be made to any inmate's official sentence computation before July 1, 2022." Anderson's "sentence just remains unchanged," VDOC wrote. "At no time was he actually eligible to have enhanced sentence credit applied to his sentence — rather only the possibility of enhanced credit after the statute went into effect July 1, 2022 and only if it remained unaltered prior to its effective date."

"You have to apply the language of the statute as it's written," said Greenspan, an attorney for ACLU of Virginia. "We feel the court in this case failed to do that." The ACLU of Virginia is also challenging the Department of Corrections' application of the earned sentence credit reforms in a separate case, Prease v. Clarke, which it has filed with the Supreme Court of Virginia. *Sarah Vogelsong Virginia Mercury*

Fairfax County Jail sees decrease in population in 2020

In 2010 Fairfax county housed 1,207 people in its jail. That population was nearly halved, down to 667 people in 2020, according to 2020 Census data compiled by The Marshall Project. What happened? Ten years ago judges sentenced people to jail much more frequently on low level charges...), including misdemeanors like possession of marijuana and driving on a suspended license. "People were also held pretrial and held on secured bonds (cash bonds) that they could not afford much more frequently." After taking office in 2020 as one of three new progressive prosecutors in Northern Virginia, current Commonwealth's Attorney Steve Descano ended the use of cash bail and stopped prosecuting simple marijuana possession cases prior to the state's legalization. The judicial system is now more receptive to alternatives to incarceration, as judges and prosecutors feel more comfortable not placing people in jail, because those individuals are getting more services outside of jail.

One possible driving force behind the decline in Fairfax County's incarcerated population in the last decade is its Diversion First policy, which began in 2016. The initiative aims to reduce the incarceration of people with mental health and substance use issues, as well as intellectual and developmental disabilities, by directing those arrested for nonviolent offenses to services instead of jail, which the county says is less costly. Through broad stakeholder collaboration, we are giving individuals with mental illness, developmental disabilities and co-occurring substance use disorders the treatment and support they need to maintain a healthy and productive life in the community and stay out of jail," Fairfax County Sheriff's Office spokesperson Andi Ceisler, said in an email. She noted that Sheriff Stacey Kincaid's office has increased the availability of education, life skills, therapeutic, and behavioral health programs that give inmates more opportunities and reduce recidivism. *David Taube, Fairfax County LocalNews*

Some Legislation Short Session 2023

SB 887 Correctional facilities, use of isolated confinement. Introduced by: Joseph D. Morrissey . Prohibits the use of isolated confinement, as defined in the bill

SB 888 Imprisonment; consecutive terms. Introduced by: Joseph D. Morrissey. Eliminates the required imposition of mandatory consecutive sentences of imprisonment.

SB 1361 Parole Board; membership; eligibility determinations; reports.

Introduced by: Joseph D. Morrissey | The bill increases from five to 10 the number of Board members, establishes a time line for member appointments, provides appointment power over six of such members to certain committees.

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If you have an email address and are not receiving updates from Virginia CURE, please send a message to curevirginia@gmail.com.

Book Reviews:

SOLITARY: UNBROKEN BY FOUR DECADES IN SOLITARY CONFINEMENT BY ALBERT WOODFOX

Solitary is the story of Albert Woodfox, a black inmate at Angola prison in Louisiana, who was wrongfully accused of murdering a white correctional officer while serving a 50 year sentence for armed robbery. Woodfox was sentenced to life in solitary confinement. This book is his memoir of those many years of pain, abuse, and, under appalling circumstances, unlikely friendships with the other men in solitary confinement. Let this book serve as a reminder that solitary confinement is torture and continues to be used in prisons across America.

Citizens United for Rehabilitation of Errants– Virginia, Inc.
Virginia CURE
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Join Virginia CURE today and become a part of the effort to work for criminal justice reform and safety in our communities. Send dues payment to:

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Dues are payable January 1 on a yearly, non-prorated basis for current year. Prisoner members need to include state number on all communications to CURE.

Remember to send address changes.

Check type of membership

- Prisoner* \$ 2.00
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*Prisoners may send five stamps.

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Involvement: prisoner family friend professional volunteer

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Virginia CURE invites prisoners to submit original articles, poetry and artwork for consideration for publication. Virginia CURE reserves the right to edit submissions accepted for publication.

Virginia CURE will not return submissions unless prior arrangements are made. Send submissions to: Newsletter Editor, Virginia CURE, P.O. Box 2310, Vienna, Virginia 22183

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