

Fall-Winter 2021-2022

Highlights

**Report : Who's in Prison?
Legislation
Solitary Increases
Release Cards**



Who Is Incarcerated in State Prisons?

A new report from the Prison Policy Initiative dives deep into the data to answer this question. *Beyond the Count* examines the most recent and comprehensive demographic data about people in state prisons and provides a groundbreaking view of the lives of incarcerated people before they were locked up. The report analyzes data from the Bureau of Justice Statistics' "Survey of Prison Inmates," collected in 2016 and released in late 2020. The data show what many in the criminal justice reform movement already know: that the U.S. criminal justice system today locks up the least powerful people in society. Key takeaways include:

- **Many, if not most, people in prison grew up struggling financially.** 42% of survey respondents said their family received public assistance before they were 18. Respondents also reported uncommonly high levels of homelessness, foster care, and living in public housing before the age of 18.
- **Most individuals in state prisons report that their first arrest happened when they were children.** 38 percent of the people BJS surveyed reported a first arrest before age 16, and 68% reported a first arrest before age 19. The average survey respondent had been arrested over 9 times in their life.
- **The typical person in state prison is 39 years old and has a 10th grade education,** a fact that is most likely linked to youth confinement, which disrupts a young person's life and schooling.
- **Half (49%) of people in state prisons meet the criteria for substance use disorder (SUD),** and 65% were using an illicit substance in the immediate lead-up to their incarceration, suggesting that many people who are not locked up for drug offenses are still victims of our country's choice to criminalize substance use rather than treat it as a health issue.

"What the data in our new report show is that this country is locking up the same people it has failed by not investing in things like good healthcare, housing, and education for all," said report author Leah Wang. "What's worse, the data show that most disadvantaged people's encounters with the justice system begin during childhood, when they are arrested rather than given the care and attention they need as young people." *Excerpt from PPI Report*

Death Penalty Faces Legal Tests in Arizona

The US Supreme Court will hear arguments from two Arizona death row inmates in a case that could have devastating consequences for prisoners attempting to prove their innocence before execution, reports The Guardian. Arizona officials argue the prisoners should not be allowed to put forward evidence in federal court, because they failed to do so in state court at an earlier stage in their legal proceedings. The prisoners protest they had no chance of seeking redress at state level because the lawyers assigned by Arizona were so incompetent at trial that they failed to uncover crucial evidence which could have spared them from death row. If the court decides for Arizona it could erect new hurdles that would impede all convicted prisoners, including death row inmates, from seeking redress in federal court for possible miscarriages of justice. In short, all states could be impacted, including Virginia.

Virginia CURE An effort to reduce crime through criminal justice reform

Criminal Justice Bills filed January 2022

This list includes bills that were supported and opposed by VACURE., and bills that failed. The session also saw the conversion of some bills that were turned into studies followed by reports.

HB 422 Writ of actual innocence; previously or unavailable nonbiological evidence; contents.

Introduced by: Charniele L. Herring. Changes the provision requiring that a petitioner petitioning for a writ of actual innocence based on previously unknown or unavailable non-biological evidence allege that such evidence is such as could not, by the exercise of diligence, have been discovered or obtained before the expiration of 21 days following entry of the final order of conviction or adjudication of delinquency by the circuit court to instead require that the petitioner allege such evidence could not have been discovered or obtained before the conviction or adjudication of delinquency became final in the circuit court. **Passed House and Senate**

HB 501 Discovery in criminal cases; copies of discovery for the accused.

Introduced by: Michael P. Mullin Provides that for any discovery materials or evidence that the accused is permitted to inspect and review, the accused may request the Commonwealth to copy or photograph such discovery materials or evidence, and the Commonwealth shall provide such copies or photographs to the accused or his counsel. **House: Left in Courts of Justice.**

HB 655 Corrections Ombudsman, Office of the Department of; created, report. Introduced by: Patrick A. Hope | The bill enumerates the duties and powers of the Office, which include (i) providing information, as appropriate, to inmates, family members, representatives of inmates, Department of Corrections (the Department) employees and contractors, and others regarding the rights of inmates; (ii) monitoring conditions of confinement and assessing compliance with applicable federal, state, and local rules, regulations, policies, and best practices as related to the health, safety, welfare, and rehabilitation of inmates The bill also establishes a Corrections Oversight Committee, which is responsible for selecting the Department of Corrections Ombudsman. The bill additionally outlines the Office's authority to conduct inspections of each Department or Board of Local and Regional Jails facility and requires the submission of an annual report to the Governor, the Attorney General, the Senate Committee on the Judiciary, the House Committee on Public Safety, and the Director of the Department. **House, left in Public Safety**

HB 658 Juveniles; appointment of counsel; indigency Introduced by: Patrick A. Hope. Removes provisions stating that when the court appoints counsel to represent a child in a detention hearing or in a case involving a child who is alleged to be in need of services, in need of supervision, or delinquent and, after an investigation by the court services unit, finds that the parents are financially able to pay for such attorney in whole or in part and refuse to do so, the court shall assess costs against the parents for such legal services in the amount awarded the attorney by the court, not to exceed \$100 if the action is in circuit court or the maximum amount specified for court-appointed counsel appearing in district court. **House: Left in Courts of Justice**

HB 661 Capital murder; death penalty for the willful, deliberate, and premeditated killing

Introduced by: William C. Wampler III Capital murder; death penalty for the willful, deliberate, and premeditated killing of a law-enforcement officer. Authorizes punishment by death for the willful, deliberate, and premeditated killing of a law-enforcement officer. **House: Left in Courts of Justice**

HB 665 State correctional facilities; fees. Introduced by: Patrick A. Hope . The bill provides that the cost of items within a state correctional facility's store or commissary shall not exceed 10 percent of the typical market rate for the same goods or services and that the fee associated with electronic visitation and messaging systems shall not exceed the actual costs of establishing and operating such systems. The bill eliminates fees associated with the use of telephone systems and the provision of an inmate's medical records upon his discharge. The bill provides that upon discharge from a state correctional facility an inmate shall receive, in the form of a check, an electronic transfer, or a debit or other account card, the balance of the inmate's personal trust account. **Passed House and Senate**

HB 735 Department of Corrections; earned sentence credits. Introduced by Robert B. Bell. Repeals the four-level classification system for the awarding and calculation of earned sentence credits currently set to go into effect on July 1, 2022. Under current law, a maximum of 4.5 sentence credits may be earned for each 30 days served. **Senate: Passed by indefinitely in Finance and Appropriations**

HB 758 Probation, revocation, and suspension of sentence; penalty. Introduced by: Les R. Adams Makes changes to the definition of a technical violation as it pertains to the revocation of suspension of sentence and probation, and clarifies that a technical violation shall not include a violation of any specific or special term or condition imposed by the court in the original or any subsequent sentencing order and includes the consequences of a violation based solely upon a first technical violation and for a second or subsequent technical violation or any other violation, including a violation of any specific or special term or condition imposed by the court in the original or any subsequent sentencing order. **Defeated by Senate**

SB 108 Correctional facilities; DOC to convene work group to study use of restorative housing. Introduced by: Joseph D. Morrissey. Directs the Department of Corrections to convene a work group to study the use of restorative housing within state correctional facilities and juvenile correctional centers. The bill directs the DOC to facilitate confidential interviews between work group members and at least 25 persons currently incarcerated in a state correctional facility who are currently or who have within the past 12 months been placed in restorative housing and confidential interviews with existing staff and facility officials as requested by the work group. **The bill requires the work group to submit its findings and recommendations, including how to safely reduce or end the use of restorative housing that lasts longer than 14 days, to the General Assembly by December 1, 2022.**

SB 104 Mandatory minimum sentences; elimination, modification of sentence to mandatory minimum term. Introduced by: Joseph D. Morrissey. Elimination of mandatory minimum sentences; modification of sentence to mandatory minimum term of confinement for felony offenses; report. Except for aggravated murder of a law-enforcement officer, eliminates all mandatory minimum sentences of confinement from the Code of Virginia. **The bill directs the Secretary of Public Safety and Homeland Security to establish a work group to evaluate the feasibility of re-sentencing persons previously convicted of a felony offense that was punishable by a mandatory minimum term of confinement and to report its findings by November 1, 2022.**

SB 378 Petition for modification of sentence; eligibility, procedures. Introduced by J. Chapman Petersen. Provides a petition process for a person serving a sentence for any conviction or a combination of any convictions who remains incarcerated in a state or local correctional facility and meets certain criteria to petition the circuit court that entered the original judgment or order to (i) suspend the unserved portion of such sentence or run the unserved portion of such sentence concurrently with another sentence, (ii) place such person on probation for such time as the court shall determine, or (iii) otherwise modify the sentence **House, left in Courts of Justice**

Solitary Confinement Bill becomes study

A House of Delegates subcommittee has voted to change legislation passed by the Senate to strictly limit how long state prisons can hold people in solitary confinement. (HB108) Instead, the bill was amended to language that directs prison officials to study the issue. Supporters of the legislation, had been concerned about the state's use of solitary confinement for years, and argued the practice had been already studied enough However, given the composition of the amendments. the best compromise they could hope for in the Republican-controlled House. "I don't want a study, but the alternative was that this bill was going to be defeated," said Del. Patrick Hope, D-Arlington, one of the chamber's more outspoken advocates for prison reform. But he urged the Department of Corrections to take the study seriously. "When the General Assembly asks for a work group to study a topic, we mean it," he said. "The Department of Corrections argued it no longer uses solitary confinement because procedures now call for all inmates to have at least four hours outside of their cells each day. Solitary confinement has traditionally been defined as being held in isolation for 22 hours a day. However, Advocates and Persons incarcerated, have argued the difference is semantics. Among other things, they note that out-of-cell recreation time is also isolated and typically consists of a prisoner being moved from their cell to a different caged area, alone. The Senate bill, proposed by Sen. Joe Morrissey, D-Richmond, would have barred prisons from holding someone in confinement for longer than 15 days in any 60-day period. It would also require medical and mental health evaluations and meaningful programming and interaction during out of cell time. The Department of Corrections estimated it would cost \$4.8 million to meet the requirements set in the bill.

Use of Solitary Increased by 500% During Pandemic

Before the pandemic, the estimated number of people held in solitary confinement in the U.S. ranged from 50,000 to 80,000 on any given day, though many advocacy organizations believe counts are underestimated. Now, new data shows that at the height of the pandemic last year, up to 300,000 individuals were in solitary, according to analysis from Solitary Watch and The Marshall Project, non-profits focused on criminal justice reform advocacy, reports NPR. Put another way, solitary confinement was used at an increase of close to 500 percent over previous levels, the official report details. Like every sector of the justice system during the pandemic, the limits of the current system were tested. Early reports during the pandemic illuminated problems with mask access, sanitation tools, COVID-19 testing, and stories of how social distancing was nearly impossible with the number of individuals behind bars.

The impossibility of social distancing created issues with the ability to quarantine, as well as the ability to affect the spread of the virus. So, prisons resorted to solitary confinement, “institutions using six-by-nine-foot cells where someone will spend 22 to 24 hours a day confined will do more harm than good”, according to the report. Moreover, while more individuals are being placed in solitary confinement conditions as a way of stopping the spread — experts say confinement exacerbated unsafe conditions, and led to an even bigger outbreak of the virus. Studies show that extended time in solitary confinement can weaken the immune system and cause “underlying physical conditions like hypertension that increase the risk of contracting and suffering serious health effects from COVID-19.”

University to present training in solitary confinement protocols for youth

The Georgetown University Center for Juvenile Justice Reform will present a class in protocols aimed at limiting the use of solitary confinement of youth. The first class of trainees for the “Ending Isolation in Youth Facilities” certificate program also will include professionals as well as representatives of nonprofit organizations working with youth who have been arrested, convicted, paroled or enrolled in community-based diversion programs. The center also is preparing to spotlight four juvenile justice agencies from four states as innovators in reforming solitary confinement and, alongside that, creating programs whose outcomes include having fewer kids display the behaviors that can land them in solitary. Representatives from those agencies, which the trainees eventually will visit, likely will be among speakers and instructors for the weeklong training.

Fairfax County Diversion First

Policy and cultural changes have dramatically altered Virginia’s largest county’s judicial system, “Ten years ago judges sentenced people to jail much more frequently on low level charges “ a county official stated. People were also held pretrial and held on secured bonds (cash bonds). 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. One possible driving force behind the decline in Fairfax County’s incarcerated population in the last decade is its Diversion First Policy. The initiative aims to reduce the incarceration of people with mental health issues which the county says is less costly.

Civil Rights Commission find 60% of jailed not convicted

A new report by the U.S. Commission on Civil Rights has found that 60 percent of people awaiting trial remain in jails. These jails increasingly hold people who have not been convicted of a crime, especially people of color, simply because they can’t afford bail. Meanwhile, political polarization around the issue within the commission itself has resulted in a failure to pass on recommendations and findings for the second time since similar contentions in September 2021.

Panelists repeatedly recommended more funding to the criminal justice system and that the Justice Department improve its monitoring of pre-trial abuses in various jurisdictions, noting that median bail amounts for a felony arrest are \$10,000 nationally while the Federal Reserve found that nearly half of Americans would not be able to pay an unexpected expense of \$400. The existing system frequently fails to detain someone because they are a public safety risk,

but regularly holds those who lack the money — even \$100 — to pay for cash bail. Between 1970 and 2015, the number of people detained prior to any trial increased 433 percent across the U.S. Today, nearly three-fourths of the 631,000 people held in U.S. jails every day have not been convicted of a crime but are awaiting trial.

Hampton Roads group bails people out of jail

On any given day, an estimated 13,000 people who have not been convicted or sentenced are locked up in jails across Virginia. Some are detained pretrial solely because they cannot afford bail. In Hampton Roads, a local bail fund program joins a growing list working to change that. The bail fund program, which operates under the name of *Tidewater Solidarity Bail Fund*, covers the cost of bail for individuals arrested for low-level crimes who do not otherwise have the means to pay. The fund recently hit a milestone — paying bail for the 100th time for a defendant who could not afford it and would have awaited trial in jail.

ConConnect: a networking platform for the formerly incarcerated

When Andre Peart left New York state Bare Hill Correctional Facility in 2018, he didn't have anywhere to go. The open gates didn't offer much freedom so at 23 years old, he walked out of his sentence with \$40 in gate money and a bus ticket, which couldn't get him very far. Peart lived in local shelters for about a year. He made money as a garbage collector and providing maintenance at a gym. "It reminded me of prison," said the now 31-year-old entrepreneur, "I wanted to flourish and do more so I could get out". He started applying frantically for jobs, with no success. The need to get a job wasn't just financial - it was a parole requirement, along with other mandates. Then he discovered LinkedIn. He was excited to find a tool to form a professional network and find resources. But he was still getting turned down for the jobs and connections he was applying for, despite having good credentials. "I thought it would be extremely powerful if there was a tool like this catered to men and women like me," he said. "And because there was nothing like it, I decided to build it." Peart then founded ConConnect in 2020, the first professional networking platform for the formerly incarcerated. In 2021, he was accepted by the Center for Black Innovation to receive mentorship, access to executives and resources to bring his concept to life. Tech Stars, a venture capital firm, and Cox Enterprises, a leading communications company, soon decided to fund the project.

Before the platform officially went live, it had already received about \$125,000 in investments. Although it's still in its beta version, it has already attracted 2,700 users. To achieve that, Peart had to work with probation officers, nonprofit organizations and state and local governments to share the platform with the formerly incarcerated. The website also hosts over 220 community partners, 40 employers, and offers 60 different services. Peart says that ConConnect should have 1,000 jobs posted by this summer, with three to five listings being published every week.

A Note About Letters to Virginia CURE

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. We have currently a large backlog of letters that we will try to address.

Also, please do not send legal papers as we do not have the capacity to deal with legal issues.

Thank you for your interest in VACURE. We look forward to working together to improve Virginia's criminal justice system.

Please send mail to:

Virginia CURE. PO BOX 2310, Vienna VA 22183

A Prison Policy Initiative Update: Spotlight on Release Cards

Every year, roughly 5 million people are released from jail and another half million leave prison.. When a person leaves a correctional facility, they often receive their funds — wages earned while behind bars, support from family members, or money the person had in their possession when arrested from fee-laden prepaid debit cards. To better understand how these companies continue to unfairly extract money from consumers — and more importantly, what can be done to stop them — this report analyzed the most recent fee disclosures that release-card companies filed with the CFPB, Consumer Financial Protection Bureau.

When someone is given a release card on their way out of a prison or jail, they have up to six ways to use its value, but each option entails different challenges, and most involve fees. As the CFPB's director recently noted, some release-card companies have made a practice of "siphoning off...people's own hard-earned money" through abusive practices that sometimes violate federal law. The data summarized in this report paint a picture of a complex obstacle course, riddled with pitfalls that deprive formerly incarcerated people of the modest amount of money they have when they are released. The report identifies the many ways the cards take your money. The list is too long to summarize here and but a few examples will suffice to provide an idea of what people have to deal with.

The first way someone can get their money off of a release card is by exercising their right to "opt out" and get a refund, however, you have to act quickly when contacting the company else you will go beyond an arbitrary grace period and get hit with maintenance fees. Second: opting out generally requires that the cardholder contact customer service or make a web-based request to close the account, however people recently released from custody frequently lack reliable phone or Internet service. Also refunds are generally sent via a mailed check, even though recently released people are likely to need time to establish a mailing address.

The report offers six ways to get money back, exposing various problems and some solutions. If someone spends a long time in custody, and accumulates a balance in their "trust account," for example a prepaid debit card may be a convenient way to give someone their money, especially if there are few (or no) fees.

People First Writing Guide

Designed to desensitize, terms such as "felon," "convict," "offender" and "criminal" replace names and other descriptions, such as "woman," "daughter," "father," "child" or "person." These carceral labels compound punishment by reducing people to their worst moments, codifying stigma and haunting people for years after sentences are served. Incarcerated, formerly incarcerated and convicted people have been arguing for years that not only are such labels painful for them individually — Now we have two national studies of of nearly 3,000 people, conducted by the bipartisan policy group FWD.US and the polling firm Benenson Strategy Group, that found those surveyed were significantly more likely to describe people in negative terms and make dehumanizing associations — considering a person "dangerous," for instance — when they were defined by labels such as "felon" and "habitual offender. In 2016, the Office of Justice Programs scrubbed harmful carceral terms from its website, grant solicitations and speeches. (The policy was rescinded by the agency during the Trump administration and has yet to be reinstated by the Biden administration.)

FWD.us is a lobbying group based in the United States that advocates for prison reform, status for undocumented immigrants, particularly for DACA recipients, and higher levels of immigration visas, particularly for H-1B visas for foreign workers in STEM fields. The initiative is primarily supported and funded by Silicon Valley, and led by principal Facebook founder Mark Zuckerberg. Excerpt from the Washington Post

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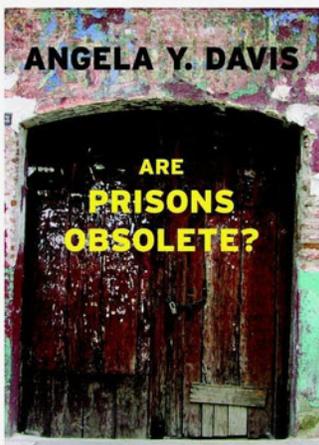
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WE NEED YOUR EMAIL ADDRESS!

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

Book Reviews:



Are Prisons Obsolete?

By Angela Davis

One of the central texts of the prison abolition movement,” Davis’s book is extraordinary in the way it “encourages readers to imagine alternatives to imprisonment, especially by addressing the broader structural issues propelling mass incarceration.” Similarly, “Professor Davis argues that this movement, like other abolition movements in America, seem radical at first but after some struggle have the potential to transform society.”

Citizens United for Rehabilitation of Errants– Virginia, Inc.
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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.

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- Prisoner* \$ 2.00
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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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