



# MI-CURE NEWS

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## OUR LATEST SURVEY

In the August newsletter, we asked for ideas on how to improve the MDOC's grievance system. We received the following suggestions:

- Remove MDOC staff from the process, including the investigative process. Several suggested that law students might be used. Others suggested an independent grievance staff within the department, perhaps accountable to the Director, Internal Investigation Unit or Ombudsman. One person suggested removing security staff from the process.
- Establish more accountability. Ensure that there are consequences for staff who fabricate facts, who willfully engage in misconduct, who retaliate against someone who writes a grievance, or who rejects grievances without proper review.
- Honor time limitations. Noting that the process is to take 120 days, one person reported receiving a response at step 3 after 19 months. Another reported receiving a Step 3 response that upheld previous decisions he had never received. One pointed out that there are no time limits governing the mailroom package/mail rejection process. If the rejection is not resolved with the mailroom, it can be grieved. Without time limits on the mailroom, the 120 days can be impossible to meet.
- Rotate staff to reduce over-familiarity.
- Employ Prisoner Grievance Aides who would operate in a fashion similar to legal writers, handicap aides, or observation aides.
- Train grievance coordinators adequately.
- Train incarcerated persons. This might be accomplished by familiarizing Warden's Forum representatives with the proper way to complete and submit grievances, making a sample of a proper grievance available to the population, ensuring that the policy directives and operating procedures are readily available in every unit, and revising the policy to allow incarcerated individuals to assist one another in writing grievances.
- Do not reject grievances because two or more people happen to write a grievance related to the same issue. Do not reject grievances for issues unrelated to the reason for the grievance.
- Ensure that the first step is reviewed by someone with the authority to correct the problem, e.g. inspector, deputy warden, or warden—or in the case of medical grievances, someone who is able to

challenge, change, order, or correct a prior decision where treatment is clearly inappropriate, untimely, or ineffective.

- Do not transfer someone from an institution when there is a pending grievance, unless s/he signs off on the transfer. If there is a serious security issue, the grievant should be interviewed prior to the transfer.
- Develop a mechanism to respond to emergent issues well. Issues like Ramadan meals were not resolved until after Ramadan.
- Rewrite the policy to include (1) notification of grieved parties within 24 hours; (2) adjust schedules to avoid contact between the person who wrote the grievance and staff members under investigation (if the writer requests it); (3) appointment of two grievance investigators – one staff and one an incarcerated person; and (4) implementation of the resolution in 24 hours or less.
- Two people suggested the system needed to adhere to U.S. Standards: (1) Employees and prisoners must have an advisory role in formulating and operating it. (2) There must be an independent review by someone not under the direct supervision or control of the institution or MDOC. (3) It must be completed within 90 days.

In 2012, a Canadian court was asked to rule in the case of an incarcerated person who alleged that prison officials were not adhering to the law by refusing to handle complaints in a "fair and expeditious" manner. Canadian corrections officials claimed that many of the grievances they receive each year are frivolous. In response, Howard Sapers, Canada's correctional investigator, claimed that frivolous complaints could be dealt with in other ways and that the frivolous complaints were only a fraction of the thousands of complaints filed by inmates. He reported that his office had been raising these concerns for over 30 years. "These are issues that occur again and again and again. Staff harassment, inappropriate placement in security levels, inappropriate placement in segregation, arbitrary decisions outside of policy that limit family contacts and family visits, very serious concerns including issues of liberty and human rights."

Canadian Federal court Madame Justice Anne Mactavish ruled that the prison system was breaking the law by failing to deal with inmate grievances in a timely manner.

While the Canadian federal prisons system and the Michigan prison system are certainly different, the complaints are similar. We agree with Mr. Sapers and Catherine Latimer, executive director of the John Howard Society of Canada who

believe that a good grievance system benefits staff and inmates alike by ensuring that policies and rules are followed.

In 2015, the Michigan Law Prison Information Project published a review of grievance policies in the fifty states and the nation's 12 largest metropolitan jails. The result of that review was a list of 20 recommendations, which we have included below:

#### General policy features:

1. Grievance policies should clearly define what is and is not grievable.
2. Given the sensitivity and urgency of complaints related to sexual abuse, health care, and emergencies, policies should specifically address these types of grievances.
3. Policies should expressly address remedies, and should allow, at a minimum, remedies of institutional change and restitution and/or restoration.
4. The grievance forms should have a detachable receipt at the bottom that the CO signs and leaves with the person submitting the grievance. That would provide proof that the grievance was submitted on a specific date.

#### Access:

5. Jurisdictions that require informal attempts at resolution should not require face-to-face communication between grievants and staff about whom they are complaining.
6. For formal grievances, jurisdictions should avoid the burdens of face-to-face submission by using secure submission boxes or submission via mail.
7. Jurisdictions should streamline their paperwork processes, allowing use of grievance forms; jurisdictions should avoid having too many different forms whose use is mandatory.
8. Prisoners should be able to readily access forms in common areas of the prison, as well as through caseworkers or counselors.
9. Policies should protect access to the grievance system for prisoners who make good-faith procedural errors.
10. Jurisdictions should provide ways segregated prisoners can access the grievance process.
11. Jurisdictions that impose single-subject rules should provide reasonable safeguards, such as permitting prisoners to re-file grievances rejected as covering too many topics, providing time extensions in order for prisoners to re-file, and not counting the denied grievance towards a maximum number of grievances per prisoner.
12. Jurisdictions should permit third-party assistance in all cases.

#### Appeals and notice:

13. Appeals should be decided by a committee and/or an individual not associated with the Department of Corrections.

14. Policies should require officials to provide notification to prisoners at each stage of the grievance process.
15. Policies should require officials to provide written reasons for denials or rejections of grievances at each stage of the grievance process.

#### Time limits:

16. Prisoners should be afforded at least 10 days to initiate the grievance process.
17. Prisoners should receive exceptions to time-bars for good cause.
18. Policies should explicitly provide that in the case of an ongoing grievance, the clock begins to run at the time of the most recent incident.
19. Policies should start the clock for subsequent steps when the prisoner receives notification of the decision on the prior step.
20. Policies should require officials to provide initial responses within 30 or fewer days.
21. Policies should require officials to provide initial responses within 72 hours for emergency grievances.

**MI-CURE Observations:** We are convinced that there would be many fewer grievances if all incarcerated persons were supported by staff while engaged in constructive activities for the majority of each day. That is our very strong preference.

At the same time, it is important that the grievance system works well. That is unlikely to happen until everyone involved (administrators, staff, and incarcerated persons) view it as a valuable tool for managing the system. A well-managed grievance system has the potential to do the following:

- Address policy problems.
- Educate staff and inmates regarding the meaning and importance of policies.
- Teach individuals how to advocate for themselves.
- Resolve conflicts and teach problem solving and conflict resolution techniques.
- Work with staff and inmates who are routinely involved in the grievance process to help them avoid these situations.
- Identify trends that may lead to increased unrest in the system.

We believe these are all valuable potential outcomes. It seems that the administration will have to begin the culture change, which could be introduced one facility at a time. We suspect that the change may require some staff reassignments.

*Sources: "Judge orders judicial review of prison grievance system," by Maureen Brosnahan, CBC News, August 7, 2012; "Prison and Jail Grievance Policies: Lessons from a Fifty-State Survey," by Priyah Kaul, Greer Donley, Ben Cavataro, Anelisa Benavides, Jessica Kincaid, and Joseph Chatham, Michigan Law Prison Information Project, October 18, 2015*

## LEGISLATION PASSED IN 2016 SESSION

The Michigan Legislature passed and the Governor signed HB 5273, which eliminates the authority of successor judges to veto grants of parole to parolable lifers.

The Michigan Legislature passed and the Governor signed SB 291, which will compensate individuals \$50,000 for each year an individual was incarcerated on a wrongful conviction. An individual is eligible if his judgment of conviction was reversed or vacated and either the charges were dismissed or he was determined on retrial to be not guilty. However, an individual is not entitled to compensation under this act if he was convicted of another criminal offense arising from the same transaction and either that offense was not dismissed or the plaintiff was convicted of that offense on retrial.

The Michigan Legislature passed and the Lt. Governor signed HB 4674, which expands the availability of assisted outpatient mental health treatment aimed to prevent a person from becoming a danger to themselves or others. A family member or guardian will now be able to petition for treatment earlier.

## ELECTRONIC MONITORING

In his report, "Electronic Monitoring Is Not the Answer," James Kilgore argues that we need to give more thought to how these tools are being used. Supporters of electronic monitoring (EM) frequently refer to it as an alternative to incarceration. In fact, EM is often added on as a condition of probation or parole. Former MDOC administrator Richard Stapleton has argued that it is "another burdensome condition of extending... incarceration."

Kilgore argues that the agents often impose irrationally harsh rules on those being monitored. He lists a number of those.

- Being allowed to shop in only three stores in town
- Not being allowed to go shopping and attend a movie during the same outing
- Being allowed out of the house only to do shopping or laundry if no one else in the household can perform these activities
- Being allowed out of the house for family activities only two days per year, Thanksgiving and Christmas, and only for two hours on those occasions
- Not being allowed to go to a hospital in an emergency without first obtaining permission from the parole officer, regardless of the time of day or the seriousness of the situation
- Receiving a 10-day "flash" incarceration for going to a hospital in an emergency and failing to have the doctor fill out the forms required by the Department of Corrections before the police arrived at the hospital
- Not being allowed to work overtime or change work schedule without permission from the parole officer
- Having to submit a detailed description of all movements out of the house two weeks in advance,

including the departure and arrival details of all buses taken along with the days and hours of work assignments for jobs like house cleaning, construction, and gardening where schedules are not precise

- Not being allowed to speak with anyone in the apartment complex where the person lived
- Not being allowed to sit on the front porch or be in the back yard of a house where the person on the monitor lived
- Having to request permission to go to the laundry room in an apartment complex
- Not being able to shower because the shower was out of the range of the signal of the ankle bracelet
- Being ordered to do a drug test during working hours without the parole agent making prior arrangement with the employer

Mr. Kilgore argues that in order for EM to be a genuine alternative to incarceration: "(1) it must be used instead of incarceration in prison or jail, not as an additional condition of parole, probation, or pre-trial release; (2) it must be implemented with an alternative mindset. A genuine alternative mindset as applied to EM must ensure the person on the monitor has a full set of rights and guarantees, including the rights to seek and attend work, to access education and medical treatment, and to participate in community, family and religious activities."

He lists fourteen guiding principles that should govern the use of EM:

1. Electronic monitoring with house arrest must be seen as a form of incarceration. People who spend time on a monitor should be given credit for time served.
2. Electronic monitoring should not be added onto a term of parole or probation after a person has served their time.
3. We must not place people who have not been convicted of any crime on electronic monitor.
4. Regulations regarding both access and archiving of data collected from GPS-based electronic monitors must be put in place. These regulations must respect the right of privacy and outline time frames for deleting such data from official archives.
5. The treatment of people with sex offense histories or any other sub-category of criminal convictions should conform to the same standards of privacy and human rights accorded everyone else in the criminal justice system.
6. Exclusion zones should only be used in rare instances and applied on a case-by-case basis.
7. Lifetime GPS should be abolished.
8. Enhancing the surveillance power of electronic monitors should be opposed, particularly adding the capacity to monitor biometrics or brain activity, to audio or video record, or to administer pharmaceuticals remotely. Any moves to initiate chip implants should also be opposed.

9. Electronic monitors should not be technological mechanisms for reinforcing economic and racial disparity. In the past, ankle bracelets have often been used as a means of helping the well-to-do avoid incarceration for their transgressions. By contrast, strict EM regimes have been disproportionately applied to poor people as an add-on to an already burdensome condition of parole or probation.
10. The rules for EM regimes should not be punitive. They should be transparent and informed by the rights of the person on the monitor and their loved ones.
11. User fees for people on electronic monitors as a result of involvement in the criminal justice system should be banned.
12. The companies that provide electronic monitoring services need to be strictly regulated by government authorities.
13. Practitioners and providers of electronic monitoring in the US have established no best practice models which acknowledge the human rights of people on the monitor. The Confederation of European Probation (CEP) provides a model for a program that is more consistent with progressive notions of justice and rehabilitation.
14. The development of policy on electronic monitoring should include significant participation from those who have been on electronic monitors, their loved ones, and those officials who have been involved in the actual implementation of monitoring programs.

*Source: "Electronic Monitoring Is Not the Answer, Critical reflections on a flawed alternative," by James Kilgore, Urbana-Champaign Independent Media Center, October 2015*

### BRAIN INJURIES

No two brain injuries are alike. Two people can suffer the same injury and have totally different impairments. Wayne Gordon, a professor of rehabilitation medicine at Mount Sinai School of Medicine has suggested that differential responses could be due to a combination of physical, genetic, contextual, and social factors. Those might include skull thickness, the magnitude of g-forces involved in the impact, or past history of more minor injuries.

The most common type of brain injury is a concussion. About 85 percent of people who suffer one will more or less fully recover within a year. For those who do not recover, ongoing symptoms may include headaches, attention and memory deficits, and increased anger, impulsivity and irritability. Traumatic Brain Injury (TBI) also increases the likelihood of other mental health issues, including substance abuse.

Each year, approximately 1.7 million civilians will suffer an injury that disrupts the function of their brains enough to qualify as a TBI. About 8.5 percent of U.S. non-incarcerated adults have a history of TBI, with about 2 percent currently suffering some disability because of the injury.

The picture is quite different in the nation's prisons. While the majority of people who suffer a TBI will not end up in the criminal justice system, approximately 60 percent of incarcerated adults have had at least one TBI. Those individuals may have a more difficult time in prison. They may have difficulty understanding instructions, remembering rules, or participating in therapy. If the problems are not addressed, these individuals may also have a more difficult time adjusting to freedom.

Researchers recognize that we must address the behavioral issues associated with TBI if we are to stop the cycle leading to criminal behavior. The most frequent approach to date has been cognitive therapy.

There is also a need to educate a broader audience. Arresting officers may be able to handle situations better if they could recognize behaviors associated with a TBI, rather than acts of defiance. Prison staff may interact differently, if they know that someone is suffering from the symptoms of a TBI. The Brain Injury Association of Minnesota has worked with families of incarcerated people, probation officers, and outside support services in preparation for someone's release from prison. Without the predictable routines of a prison, the community may seem overwhelming to someone with a TBI leaving prison.

In a one-time university service learning project, neurological researchers from the University of Denver discovered that nearly every inmate (96 percent) in the downtown Denver jail's high-risk unit had a traumatic brain injury. Students used neurological screens that asked a series of questions. Have you ever lost consciousness? Have you ever been knocked out? Have you ever been hit by a fist? A gunshot? A car? Other questions asked about problems with memory, judgment, and decision-making. More than 90 percent had mental illness and more than 90 percent had substance-abuse problems.

The discoveries led to the university partnering with the Colorado Brain Injury Program to utilize grants to develop a jail-based treatment program. Recovery for these individuals with TBI is unlikely. Therapy focuses on helping patients understand why it is hard for them to follow directions and how to understand sarcasm. They are also taught why it is important to react immediately when a law officer asks them to put their hands up or come out of the cell. They are also encouraged to keep calendars, follow a routine, and write things down. At the same time, officers may understand that someone is not being uncooperative, but simply does not understand.

In addition to the treatment while incarcerated, the program is designed to link brain trauma therapists in the community with individuals released from the jail. Plans include screening individuals at 13 other jails and in other units of the Denver jail.

According to national research, traumatic brain injury often occurs before criminal activity. It is also true that inmates,

especially those who are homeless, are more likely to suffer brain trauma or lose consciousness in fights, car accidents, and shootings.

*Source: "Hitting prisoners hard: Traumatic brain injuries, including previous concussions, affect a disproportionate segment of incarcerated adults – and might be to blame for behavioral issues and many cases of re-arrest." By Katherine Harmon, Scientific American, February 4, 2012; "Nearly all Denver jail inmates in high-risk unit have brain trauma," by Jennifer Brown, The Denver Post, March 8, 2015*

### MAKING IT MORE DIFFICULT

On May 20, 2014, the *New York Times* began an editorial with the following paragraph:

User fees are a fact of life in America – those inscrutable “administrative” charges tacked on to everything from checking luggage to buying theater tickets to applying for college. For people with the ability to pay, they are an irritation. But such fees are increasingly being levied on people caught up in the criminal justice system, who are overwhelmingly among the poorest members of society.

The Michigan State Appellate Defender Office has produced one list of such fees. The following list includes only felony fees, though fees are imposed in many misdemeanor cases:

- Restitution: Ability to pay is not a statutory consideration when determining the amount of restitution.
- Crime Victims Rights Fee: A mandatory \$60 imposed per case, not per count.
- State Costs: A minimum of \$60 per felony offense imposed per count, not per case.
- Court Costs: Authorized as part of a criminal sentence. The costs vary by county. An informal SADO review showed an average range of \$300 to \$600.
- Fines: Permitted pursuant to specific penal statutes, though not every crime includes a fine within the permissible statutory penalty. Fines vary from up to \$1 million for certain controlled substance offenses, up to \$5,000 for home invasion first-degree, and up to \$2,000 for resisting and obstructing. Fines are also authorized under two other acts, but the legislative intent is unclear.
- Attorney Fees: Historically ordered for individuals who had some ability to pay for court-appointed defense counsel. Since January 2006, courts have been permitted to order an assessment for providing legal representation as part of a criminal sentence. The court must consider the defendant’s current and future ability to pay.
- Extradition Fees: Permitted by statute and for select offenses.
- Parole Supervision Fees: Based upon ability to pay, the monthly fee ranges from \$10 to \$40 for most

people on parole. The fee cannot exceed \$135 per month.

- Emergency Response Costs: Courts can order repayment of emergency response costs in the case of specific offenses such as drunk driving leading to a conviction of negligent homicide or manslaughter or murder (and attempts to commit them) and various offenses involving emergency police and/or fire response activity.
- Response Activity Costs: Courts can assess fees to cover the cost of some drug offenses related to unlawful generation, treatment, storage, or disposal of a hazardous waste.
- Jail Entry Fee: Each person incarcerated in a jail (whether pretrial or post-sentence) must pay a \$12 fee. A person who fails to pay the \$12 upon discharge is liable for a civil infraction and a \$100 fine.
- Jail Room and Board: A county may charge up to \$60 per day for the cost of incarceration. Not all counties seek reimbursement. A few samples include the following: Newaygo County \$30 per day; Macomb County \$45 per day; Ottawa County \$50 per day; Kent County \$21 per day with exemptions for inmates who perform a variety of work details.
- State Correctional Facility Reimbursement: The state can take up to 90% of the value of a prisoner’s assets to recover at least 10% of the estimated cost of care of the individual.
- Late Penalties and Fees: Costs and fees must be paid within 56 days after they become due or the offender is subject to a 20% late penalty. The late fee may be waived by the court upon the request of the offender.

Other fees not included in the SADO recap include daily fees related to post-release monitoring. Those include:

- Curfew Monitoring: \$11 per day
- Global Position System Monitoring: \$13 per day
- Secure Continuous Remote Alcohol Monitoring: \$13 per day
- Remote Breath Monitoring: \$13 per day

Where is the logic in all of this?

Lauren-Brooke Eisen, senior counsel for the Brennan Center for Justice in New York claims that jail housing fees impose unfair burdens on a population that is mostly poor and undereducated and make it more likely that ex-offenders will return to jail. Because jails often use collection agencies, she notes that the fees typically cost as much to collect as counties actually take in.

Being incarcerated exacerbates the problem. While someone is incarcerated, he is fortunate if he has a job. Most jobs in Michigan’s prisons do not even pay a prison-based living wage. Few incarcerated individuals are able to make a dent in paying restitution, fines, and fees, let alone save for release. Far too many actually incur more debt, because they receive loans to cover necessary expenses while indigent. While

public education and successful efforts to ban the box from employment applications have made it easier for released citizens to find jobs, few are going to secure high-paying jobs and many have families to support. Could we design a system that makes it more difficult for someone trying to get his or her life back on track?

The *New York Times* editorial ends with the following paragraph:

State criminal justice systems have long been strapped for resources, but that is a result of political choices by lawmakers. Criminal justice in America has become an industry, and like any industry encourages growth and moneymaking opportunities. Still, it is difficult to imagine a more unjust and counterproductive way of paying for such a system than to dump its costs on those least able to afford them.

*Sources: "Nickel and Diming the Criminal Defendant: A Look at Financial Penalties in Felony Cases," by Anne Yantus, Director, SADO's Special Unit on Pleas and Sentencing; "Critics call Michigan jail pay-to-stay programs counterproductive, Ted Roelofs, Bridge Magazine, December 18, 2016; "Pay Up or Go to Jail," by the Editorial Board, New York Times, May 20, 2014.*

### **SOLITARY CONFINEMENT ESPECIALLY HARMFUL TO PEOPLE WITH DISABILITIES**

The American Civil Liberties Union recently released a report highlighting concerns over the isolation of incarcerated individuals with physical disabilities. There is very little research and data on the number of persons with physical disabilities in prisons and jails, and there is no data on the number of these individuals in isolation. The Bureau of Justice Statistics (BJS) has reported that from 2011 to 2012, "about 3 in 10 state and federal prisoners... reported having at least one disability." Cognitive disabilities were the most commonly reported disability; ambulatory disabilities (difficulty walking or climbing stairs) were the second most common.

Though the numbers are unknown, it is clear that corrections authorities have justified placing people in solitary confinement for the following reasons. They are waiting to find a cell that is wheelchair accessible. They are protecting individuals from being harmed or threatened. They are placing them in isolation for medical reasons, though no medical treatment is being provided. They have broken prison rules.

It is worth noting that individuals with sensory problems (hearing or vision loss) may not be able to follow rules. They may not hear instructions. They may also be incapable of reading or understanding the rule book. People whose disabilities result in vomiting or incontinence may not be able to maintain proper hygiene or sanitary living condition without assistance.

Regardless of why the individual is in solitary, he or she will be subjected to social and environmental isolation. Architectural barriers present unique challenges. Wheelchairs may not fit in a small cell or may not be maneuverable once in the cell. Security concerns may result in the confiscation of a cane or walker that is critical for someone's mobility. Depending upon the disability, an individual may need assistance with self-care and personal hygiene. Without accessible facilities and assistance from health care professionals, individuals may have difficulty meeting basic needs. Lapses in medications or changes in medication schedules can complicate treatment. Limited physical exercise and/or lack of physical therapy may compromise an individual's health. Deaf people who rely on sign language are stripped of their opportunity to communicate while in isolation. Individuals who are blind rely mainly on their sense of hearing. The disorienting and jarring sounds in isolation units can result in auditory overload for them. Unless they are provided with auditory books or captioned television, they are more isolated than most.

Maggie Fuller, Staff Attorney for Prisoner's Legal Services of Massachusetts reports, "What I see time and time again is that our clients with disabilities deteriorate rapidly during incarceration. They leave prison in worse condition and with a reduced ability to function independently as compared to how they were when they arrived. Solitary confinement is a big part of this problem. Confining persons with physical disabilities to a cramped cell with no access to assistance from other prisoners and no access to real recreation or programming only serves to impede their progress."

The ACLU's report concludes with recommended actions for correctional systems, the federal government, and state and local legislative bodies. That is followed by policy suggestions related to General Principles, General Principles Regarding Incarcerated Persons with Physical Disabilities, Process Prior to Placement, Disciplinary Segregations, Protective Custody and Conditions. We have summarized the recommended actions below:

#### 1. Correctional Systems

Recommended actions for federal, state, and local correctional systems:

- Amend existing, or adopt new, administrative policies to reflect the recommendations made in the model policies.
- Establish data procedures to improve tracking and monitoring of incarcerated persons with physical disabilities.
- Create policies, procedures, and systems to permit both medical and security/custody to be apprised of all relevant information related to a prisoner's disability or reasonable accommodation.
- Complete a systemwide self-evaluation of each facility to determine whether facilities are compliant with the ADA.
- Establish an ADA Committee to be comprised of corrections officials and staff from all aspects of

prison services and management (e.g., custody, programming, visiting, classification, medical and mental health, etc.), as well as prisoners. The ADA Committee is responsible for addressing existing disability-related challenges, identifying policies to prevent ongoing and future ADA violations, and handling all other issues related to managing and accommodating prisoners with disabilities, particularly those held in solitary confinement systemwide.

- Provide training and support for medical personnel and custody staff on working with people with disabilities.
- Develop robust systems to gather information on incarcerated persons with disabilities to ensure that medications and accommodations remain with the person even following a transfer within the corrections system and despite security classification.
- Develop a clear and comprehensive process by which prisoners may request accommodations or seek review of any decision denying a request for an accommodation.

## 2. Federal

### CONGRESS

- Pass the Solitary Confinement Reform Act (S. 3432) introduced by Senator Dick Durbin (D-IL) to reduce the use of solitary confinement, improve conditions of confinement, and provide protections that limit time spent in solitary confinement for prisoners held in the custody of the Federal Bureau of Prisons (BOP).
- Congress should enact appropriate legislation to ban the placement of prisoners with physical disabilities into solitary confinement, except in rare and exceptional cases, for a short duration, and only where the prisoner “poses a credible continuing and serious threat to the security of others or to the prisoner’s own safety.”
- Congress should enact legislation requiring the BOP, state, and local jurisdictions to collect data on the number of incarcerated persons with disabilities, as well as those in solitary confinement or other forms of restrictive housing, reasons for placement in solitary confinement, and average length of stay.
- Congress should appropriate additional funding for Protection & Advocacy organizations to increase their capacity to engage in monitoring and oversight of corrections institutions and to increase their capacity to advocate on behalf of incarcerated persons with physical disabilities more broadly.

### DEPARTMENT OF JUSTICE

- The Office of the Inspector General of the Department of Justice should investigate the conditions of confinement for incarcerated persons with disabilities held in BOP facilities.
- The Department of Justice should audit state and

federal prisons on an annual or biannual basis to evaluate whether corrections facilities have completed self-evaluation plans or are otherwise in compliance with the regulations governing public entities under Title II of the ADA.

- The Department of Justice should augment its existing guidelines on the treatment of prisoners in solitary confinement or restrictive housing in the DOJ Report and Recommendations Concerning the Use of Restrictive Housing to include prisoners with physical disabilities consistent with the recommendations in this report.

## 3. State and Local

State legislatures and municipal bodies should:

- Ban the placement of incarcerated persons with physical disabilities in solitary confinement, except in rare and exceptional cases, for a short duration, and only where the prisoner “poses a credible continuing and serious threat to the security of others or to the prisoner’s own safety.”
- Require state corrections entities to report on the numbers of incarcerated persons with physical disabilities held in solitary in each facility within the state and the nature of their disabilities.
- Collect and monitor data on the provision of accommodations to persons with physical disabilities in solitary confinement, including but not limited to the rates of removal/refusal of accommodations, use of uncertified interpreters or other prisoners, and the rates of denial for accommodations due to cost, etc.

*Source: Caged In, Solitary Confinement’s Devastating Harm on Prisoners with Physical Disabilities, ACLU Foundation, January 2017*

### SHORTS

**MDOC Partnering to Improve Job Opportunities for Released Individuals:** The City of Detroit is partnering with the Department of Corrections to offer training that will lead to certificates in environmental services, culinary arts, and hi-lo operations. The environmental certificates include asbestos, lead, and hazardous waste abatement.

Detroit’s Mayor Mike Duggan reports that \$42 million in federal funds is available for the city’s demolition program and the city plans to take down 10,000 more houses over the next two years. City Council member Janee Ayers, who founded Detroit’s Returning Citizen’s Task Force, said the programs will provide help to those who should be given “their next best chance.” Jose Reyes, interim president and CEO of Detroit Employment Solutions Corp reported that individuals with the environmental certifications can earn up to \$20 per hour or more; hi-lo drivers are earning \$16 or \$17 per hour.

The training is funded with \$5 million in grants from the Michigan Talent Investment Agency and the Department of Labor. It is offered to groups of about 25 inmates per month and is expected to produce 225 inmates who are job-ready in

the next year. The program is operating at the Macomb Correctional Facility and the Detroit Reentry Center.

The department is also partnering with Pinnacle Truck Driver Training, Inc. to help train truck drivers. At least 15 individuals have been trained so far. The trucking industry, which is facing a labor shortage, has turned more to drivers with criminal records, according to Time Baker, Pinnacle’s operations vice president.

In another initiative, the MDOC invited the International Brotherhood of Electrical Workers union into the Vocational Village so the department could learn more about the skills needed for current jobs.

In at least one case, an incarcerated person participated in a job interview via the Internet video chat service Skype. That interview led to a job upon his release.

Sources: “New training programs get inmates job ready,” by Christine Ferretti. *The Detroit News*, October 20, 2016; “Ban-the-box policy to hire ex-inmates is gaining backers” by Lindsay VanHulle, *Business Bridge*, January 22, 2017.

**Supreme Court to Begin Electronic Filing System for Incarcerated Persons:** The Michigan Supreme Court has announced that it will be implementing a “Prisoner Electronic

Filing Program,” involving two institutions: Carson City Correctional Facility and St. Louis Correctional Facility. For the initial phase of the program, the Court will provide to the two facilities court-owned digital equipment for the sole purpose of transmitting authorized documents between the Court and the facilities. Initially, filings will be limited to applications for leave to appeal and related documents in criminal cases. Additional facilities may be added. Details of the system can be viewed by entering the following citation in the Electronic Law Library system: MI Orders 2016-73.

**Some Californians serving time will vote this year:**

Beginning in 2017, Californians in county jails for felony offenses will be able to vote. Maine, Vermont, and the territory of Puerto Rico currently allow all incarcerated people to vote.

Source: “California Extends the Ballot to Jails,” by Vann R. Newkirk, *The Atlantic*, October 4, 2016

**WITH SYMPATHY**

Since publication of our last newsletter, we have learned of the deaths of MI-CURE members and supporters Jerome “Beano” Holloway – 129212, Tom Owens – 169150, and Timothy J. “TJ” Spytma.

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