

PLS NOTES

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Parole Rates Collapse

Prison Population Rising

Last January Governor Patrick fired five of the seven members of the Parole Board - all of the members who had voted to parole Dominic Cinelli in 2008. Mr. Cinelli killed a police officer in a robbery on December 26, 2010.

For several months after the firings the Parole Board had only two members and parole hearings slowed to a crawl. Hearings for lifers stopped entirely. Six lifers who the Parole Board had already voted to release, some with only days left until their release dates, were pulled from pre-release to medium security.

Governor Patrick nominated four individuals with prosecution backgrounds and one court clinic forensic psychologist to replace the Parole Board members he fired. The new chairman of the Parole Board is an 18 year homicide prosecutor for the Suffolk County District Attorney, Josh Wall. The other new members are Charlene Bonner, a forensic psychologist, Ina Howard-Hogan, who was the General Counsel for the Parole Board, and Lucy Soto-Abbe, a victim-witness advocate from the Hampden County District Attorney's Office. A fifth nominee, John Bocon, was rejected by the Governor's Council because he refused to disclose the size of his pension

from his former job as Chief Probation Officer for the United States District Court for MA.

The result of the new Parole Board lineup is deeply troubling. In 2009, 66% of non-lifer state prisoners who saw the Parole Board were paroled. In 2011 that parole rate was 31%. In 2009, 68% of House of Correction prisoners who saw the Parole Board were paroled. In 2011 that rate is 40%. The lifer parole rate in 2009 was 35%. The new Board has announced two decisions on lifer paroles. Both are denials with five year setbacks.

The new Board has treated parole hearings as retrials of the criminal case. Prisoners are being cross-examined about the facts of their offenses by the attorneys on the Board - who previously worked as a prosecutor. The tone of the hearings has been terrible, with certain Board members being overtly disrespectful of prisoners appearing before them. The new Board has told prisoners that they will be denied parole because, in the opinion of the Board, they have not been adequately punished for their crimes. There is a serious question whether "insufficient punishment" is even a lawful basis for a decision to deny parole, because the seriousness of the crime is already taken into consideration by the court when it passes sentence.

Choking off parole obviously affects facility crowding. For the week of June 13, 2011, the combined DOC and county population in Massachusetts was 24,112.

Destruction of a balanced parole process has not been the only consequence of that December robbery. Three legislators and the Governor have filed "three-strikes" bills, one of which is modeled on the disastrous California legislation that has led to such overcrowding there that that state has been ordered by the Supreme Court to release tens of thousands of prisoners. Proposed legislation also increases the parole ineligibility period

for second degree lifers from fifteen to twenty-five years.

PLS has joined with a new grassroots group, the Coalition for Effective Public Safety (CEPS), in calling for Governor Patrick to nominate a veteran criminal defense attorney to the last remaining open position of the Parole Board. Placing a defender on the Parole Board would be one small step towards balancing a Board that currently makes a mockery of reasoned deliberation.

Governor Patrick's office number is 617.725.4005. Concerned citizens with access to email can contact the governor at constituent.services@state.ma.us - ask that your email be forwarded to the Governor. Other key officials who should hear from you are mo.cowan@state.ma.us, mary.heffernan@state.ma.us, and mark.a.reilly@state.ma.us. Attorney Cowan is the governor's Chief of Staff, Mary Heffernan is the Secretary of Public Safety, and Mark Reilly is the governor's chief legal counsel.

Bristol "Pay For Stay" Refunds Scheduled

Souza, et al., v. Hodgson

Approximately \$830,000 unlawfully confiscated by the Bristol County Sheriff from prisoners in the Ash Street Jail and North Dartmouth House of Correction is scheduled to be returned, with interest. Distribution will be made within the next few months.

Money that goes unclaimed will be distributed to three Bristol County Charities designated in a survey of the prisoners who are plaintiffs in the lawsuit.

Criminal Justice Policy Coalition Sponsors Conference on Rational Justice

Boston Foundation Hosts

Thursday, June 30, the Boston Foundation held "The Road to Rational Justice in Massachusetts" conference. The purpose of the conference was to raise awareness of, and foster implementation of evidence-based practices (EBPs) across all agencies in the criminal justice system in the Commonwealth. EBPs are policies and programs created by scientific evaluation of empirical, i.e., real world data, the intentions of which are to promote public safety, reduce recidivism, limit incarceration and overcrowding of correctional facilities, and reduce costs.

Representatives Carolyn Dykema and Jonathan Hecht have sponsored a bill (H.3286) that would create a commission to study the implementation of EBPs in Massachusetts. This bill will have a hearing before the Joint Committee on the Judiciary on July 7, 2011.

Conference Speakers:

Scott Harshbarger, former Massachusetts Attorney General, will provide opening remarks. **Len Engel**, Senior Policy Analyst at Community Resources for Justice / the Crime & Justice Institute. **William Carbone**, Executive Director at the Court Support Services Division in Connecticut. Representative **Jonathan Hecht**, State Legislator for the 29th Middlesex District (Watertown & Cambridge), and co-sponsor of H.3286, the Evidence-Based Practice bill. **Sandra McCroom**, Undersecretary of the Executive Office of Public Safety and Security of the Commonwealth.

Ronald Corbett, Commissioner of the Department of Probation in Massachusetts. **Dr. James Byrne**, Professor of Criminal Justice at UMASS Lowell. **Fred Smith**, Director of Program Development, Research and Evaluation at St. Francis House.

There also was a performance by And Still We Rise Productions, a collaborative theater project dedicated to healing, public awareness and social change through empowering the voices of formerly incarcerated people and their loved ones.

- Reprinted from the CJPC website.

CPCS Implements Innocence Program

If you have been convicted of a crime that you did not commit, the CPCS Innocence Program may be able to help you. The CPCS Innocence Program represents indigent Massachusetts state defendants who are actually innocent of the crime(s) of which they have been convicted. CPCS has funding to conduct investigations, to hire experts, and to perform forensic testing. **This program accepts cases whether or not there is DNA available for testing.**

For assistance contact:

Debra S. Krupp, Program Director
CPCS Innocence Program
44 Bromfield Street
Boston, MA 02108

Community Help With CORI-Related Problems

A community organization called the Boston Workers' Alliance (BWA) offers CORI advocacy to people who have issues getting work, housing, or social benefits because of CORI. The BWA is located at 411 Blue Hill Ave. in Dorchester and is open Monday to Friday 10 A.M. to 6 P.M. The phone number is (617) 606-3580, their web site is at www.BostonWorkersAlliance.org, and their email address is info@BostonWorkersAlliance.org.

Help with CORI issues is also available from the Legal Assistance Advocacy and Resource Center (LARC) at (617) 603-1700. LARC can provide information on clearing default warrants, and obtaining and sealing CORI. The LARC phone line is open Mon. – Fri. (except Wednesday afternoons) from 9:00 A.M. to 3:15 P.M. and Tuesday evening from 5:00 to 7:00 P.M.

PLS Supports Bill To Create Corrections Advisory Committee

On June 23, 2011, Boston City Councillor Charles C. Yancey, former DOC Commissioner Kathleen Dennehy, PLS Director Leslie Walker, and others testified at the Massachusetts State House in favor of House Bill 1559, legislation introduced by State Representative Kay Kahn, to create a Massachusetts Corrections Commission (House 01559) as a permanent independent oversight commission for the Department of Corrections (DOC).

Yancey said a Commission could lead to the improvement of public safety for inmates and employees in Massachusetts prison facilities and for Massachusetts neighborhoods and communities by improving the chances for successful re-entry by ex-offenders into society. Yancey said that at present, “Human beings are released from prisons more dangerous, more disabled, more wounded, and less prepared to assume the role of responsible adults than prior to their incarceration.”

Yancey also quoted a 2004 report by the Governor’s Commission on Corrections in which Edward A. Flynn, former Secretary of the Executive Office of Public Safety, supported recommendations to create an external advisory board to monitor and oversee the DOC and to determine goals for the department’s future. “If nothing else, inmates must leave our custody with a belief that there is a moral world. If they believe that rules and regulations can be applied arbitrarily or capriciously, then we fail them, and we will unleash people more dangerous than when they went in,” Flynn wrote.

More than 300 Massachusetts inmates are released back into their communities every month, according DOC statistics.

Testimony from Leslie Walker, executive director of Prisoners’ Legal Services in Boston, provided several reasons why PLS is supporting the proposed legislation:

- In 2010, Massachusetts had four times the national average of state prison suicides.
- In FY 2009 alone, the DOC budget grew by 11.8 %.
- In ten years, the DOC’s state appropriation has grown by over \$100,000,000 from just over \$400,000,000 to over \$500,000,000 or over 25% yet the prison population only increased by approximately 1000 prisoners (10%) in the same time period.

- Massachusetts currently spends more on prisons than on public higher education.
- Currently Massachusetts spends approximately \$1 billion dollars on state and county corrections alone. This figure does not include the costs of police investigations, prosecutions or indigent defense.
- The DOC’s costly practice of overclassification was recently criticized in a 2008 report commissioned by the Department. Best practices recommend that no more than 15% of prisoners’ scores should be overridden yet the DOC, despite a major overhaul of its classification system in 2006, overrides more than double the maximum level or 34% of all prisoners’ scores, most to higher security. Higher security prisons require more staff and are therefore more expensive to run, wasting taxpayer dollars.
- Prisons are inundated and overwhelmed by the mentally ill who now comprise approximately 25% of the prison population; many sheriffs estimate that 50% of their population is suffering from mental illness. There are far more people in prison today than in mental hospitals. The recidivism rate for prisoners with mental illness is 70%.

Walker called the proposed Commission an inexpensive way to insure that, “Light shines in the dark corners of Massachusetts’ prisons. It will let legislators and taxpayers know where their tax dollars are going. The current system of warehousing as opposed to treating, training, and educating prisoners has resulted in public safety concerns and inexcusably high recidivism rates,” she said.

Pace University Law School Professor Michael Mushlin, author of *Rights of Prisoners*, called independent, external oversight of conditions in correctional facilities an essential tool for protecting human rights in a closed institutional environment. He labeled the lack of oversight an unhealthy state of affairs for the inmates

held in prisons, most of whom will return to their communities, for prison staff, and for the public, whose tax dollars are used to operate these systems.

Boston Phoenix staff writer, Chris Faraone, whose six-month investigation of the Massachusetts correctional system yielded a highly acclaimed article, *Trouble over Bridgewater*, testified that he had spent a lot of time intensely investigating the DOC. “I came to understand the lack of oversight as the biggest most shameful thing in Massachusetts, and it goes unmentioned,” he said.

Others who testified included Reverend William Dickerson, pastor of Greater Love Tabernacle Church; Joanne Miranova of Press Pass-TV and Darrin Howell, ED of Drive Boston and former volunteer community advocate for DOC.

The Commission would be comprised of six appointees from the governor, two from the senate president, and two from the speaker of the House of Representatives. The Commission would also have individual designees from the departments of probation, parole board, mental health, public health, public safety, and mental retardation. Organizations with individual appointees would include the Women’s Bar Association, Massachusetts Taxpayers Foundation, Massachusetts Association of Health Plans, National Alliance for the Mentally Ill, and Prisoners’ Legal Services.

The Commission, which would function independently of the control and direction of the Executive Office of Public Safety, would study medical services, including mental health and substance abuse treatment services, and educational, vocational, employment, and rehabilitation programs available to prisoners.

The Commission would report annually to the legislature and would recommend how to allocate correctional resources in a manner

useful for both the taxpayer and the offender. The Commission would hold public hearings in which prisoners housed within department of correction facilities would be invited to provide written or video testimony.

Several states have adopted one form of external prison oversight or another. Ohio has had a legislative body that has conducted prison visits and issued reports on conditions and practices since 1977. New York has two such entities, one of which has been in existence since 1846 and the other since 1957. Texas has a very effective system designed to “prevent complacency on the part of corrections officials” and California’s external oversight office has been significantly expanded in recent years and is seen as an effective means of improving California’s troubled prison system. Other states with oversight bodies include Illinois, Oregon, Iowa, Indiana, Alabama, Missouri, Montana, Nebraska and New Jersey.

Councillor Yancey said he supported and encouraged swift passage of H.01559 as is currently written. “Without the help of government, what are communities to do to address and reverse the hopelessness, mental illness, untreated anger, and the self-hatred that continues to lead to bullying, suicides, and random violence by those who have been exposed to a prison culture of intimidation, brutal violence, rape and murder,” he asked.

Coalition for Effective Public Safety (CEPS) Formed

NOW is the time to “...move beyond this piecemeal policy reform work that has been done over the last thirty years to work that is more transformative, so that we’re not just tinkering with the system but instead are galvanizing a grassroots movement, one that

is contagious and can be replicated in cities and communities nationwide.”-- Michelle Alexander, Esq., author of The New Jim Crow: Mass Incarceration in the Age of Colorblindness

Who We Are

CEPS is a state-wide network of advocates, program providers, parolees, formerly incarcerated men and women, relatives of prisoners, and human rights activists who have joined forces to promote and safeguard the human rights of all people in the Commonwealth.

Why We Joined Forces

In the winter of 2011 the Massachusetts parole system went into crisis when a parolee shot and killed a police officer. We saw the need to safeguard parole policy and practices in the interest of public safety. We have since broadened our mission to include other areas of the justice system, such as conditions of confinement and reentry, because all parts of the system function interdependently.

CEPS’ Guiding Principles

We believe that critical analysis, evidence based best practices and compassion should guide public safety policy and practices as well as our own collective work.

We believe that a grassroots base, especially one including people and communities most impacted by mass incarceration, is essential to the building of an effective Coalition.

We operate on the restorative justice principle that every person is capable of change and deserves the chance to do so.

CEPS Goal

Our goal is to create a public safety system that benefits us all. We want to enable prisoners to reintegrate from a system that makes people better—not bitter!

Call to Action

Educate the media and the public about how public safety policies and practices impact the rights and safety of us all. Advocate for progressive public safety legislation. Monitor Parole Board hearings and decisions.

Parole Calculation Errors

PLS is aware of problems with some Parole Board calculations of parole eligibility and discharge dates. If you believe that there is an error in the calculation of your parole discharge or eligibility date, write to

**PLS, 10 Winthrop Sq., 3d fl.
Boston, MA 02110
Attention: "Parole Calculations."**

Contribute to PLS!

PLS accepts contributions from people who support its purposes and work. Contributions to PLS are tax-deductible, as the office is a 501(c)(3) charitable organization. In these tough times, every little bit helps.

Your contributions are especially precious in the midst of the “perfect storm” now brewing in the legislature and D.O.C. management plans.

Prisoners' Legal Services
10 Winthrop Square, 3d fl.
Boston, MA 02110

Non -Profit Organization U.S. Postage Paid Boston, MA Permit No. 58866

Speed Dial phone number for PLS
for state prisoners: *9004#

**County prisoners must call collect on (617)
482-4124.**

Families and friends of prisoners can also call
PLS for free on 1-800-882-1413 toll free from
anywhere in the state. Prisoners who cannot
reach us by phone should write to: Prisoners'
Legal Services, 10 Winthrop Square, 3d fl.,
Boston, MA 02110

Regular call-in hours are 1:00 to 4:00 on
Monday afternoons unless it is an emergency,
in which case you can call whenever you can
get a phone during business hours (9:00 A.M.
to 4:00 P.M., Monday to Friday). On weeks
when Monday is a holiday, PLS accepts calls
on Tuesday from 1:00 to 4:00.