

# Turning Point: The Newsletter of



Citizens United for  
Rehabilitation of Errants

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From the Chair

by Hedy Harden

## Ricky Kidd Finally Free!

It was June 27, 2013 when I met Ricky Kidd. We were in the visiting room at SECC in Charleston MO where the NAACP was celebrating its annual Founding Fathers banquet. Several of us were sitting at a table at the front of the room. Ricky was one of the NAACP officers. Also at the table was a local pastor and a couple of other prisoners. They were talking about an effort to get some computers into the prison, to be donated by the pastor's church. The pastor was praising Ricky for the work he was doing to help other prisoners, such as designing and teaching a class to assist those preparing for release.

The pastor, having learned of Ricky's innocence, asked him, "Do you ever think that you were put here for a reason?" Ricky smiled and nodded. He said he'd been at home with his girlfriend, who was expecting their first child, when the police came and "kidnapped" him in 1996, and he'd never seen home again.

Ricky was wrongly convicted of a double murder and sentenced to life without parole. Twenty-three years later, on August 15, 2019, he was finally set free.

"The system failed twice," Attorney Sean O'Brien said. "It failed when it wrongly convicted him and it failed when it took 23 years to correct that mistake...It was way too easy to convict an innocent man and it was way harder than it should have been to free him."

It took a team of attorneys, including

Sean O'Brien and the Midwest Innocence Project, a throng of supporters, plus an innocent man who stood strong throughout his incarceration. It also took the courage of Judge Daren Adkins, who found "clear and convincing evidence" that Ricky was innocent.

Aryan Neal remembers many times sitting with Ricky as the two of them discussed what they planned to do once they were released.

"Ricky

is going to do what he is supposed to do when he gets out," Aryan assured me.

It was a rainy day when Ricky, a free man, walked out of Western Missouri Correctional Center, but the spirit of Ricky and the welcoming crowd was bright sunshine.

"I love you," Kidd told his family, legal team and other supporters. "I love everybody. Thank you. You were my floating device. Without you, I would have drowned. I absolutely wouldn't have been able to make it without them."

He also said his faith kept him anchored. "Every time I wanted to give up, there was a spirit that was with me that wouldn't allow me to give up" he said. "I found ways to tap into that spirit in a real way, in a tangible way."

Ricky did a lot of writing. He facilitated programs to help other prisoners, using his time in a positive way. He plans to continue writing and working for justice.



Exonerees Lamont McIntyre, Ricky Kidd and Darryl Burton observe a joyous moment of freedom in KCMO.

## Summer 2019

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Ricky has a message for other wrongfully convicted persons:

"Look at me and be hopeful," he said. "Remain optimistic and know it's a fight. You keep that jab out there, and you keep that jab out there. Justice is sometimes elusive, but if you stay in the fight and learn how to persevere, this can be your fate as well."

Ricky observed, "I feel like I walked out of a nightmare and into a dream." ♦

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**CURE is *NOT* a service organization.** We are an all-volunteer non-profit criminal justice advocacy organization. CURE has NO legal services—please do NOT send legal papers. We advocate for criminal justice reform, but we cannot take on individual cases.

## Mission Statement

CURE believes that prisons should be only for those who MUST be incarcerated and that prisons should only exist for the purposes of education and rehabilitation. CURE is a membership organization. We work hard to provide our members with the information and tools necessary to help them understand the criminal justice system and to advocate for positive change.

## An Open Letter to All Missouri Prisoners

by Santino Walker

**A**trin Strong, Dwayne Newburn, Sylvester Young, and Henry Wade—these are the men whose names I remember so well, because I sat and talked with them as they lay dying in isolated cells no bigger than the one I occupy now. They were hospice patients, and I was one of their hospice volunteers. Through them I witnessed death in one of its most unnatural forms. Although it was cancer that took their lives, these men didn't die natural deaths. Along with their deaths was attached fear, anger, hatred, self-pity and sorrow.

As I sat and witnessed this, I could not help but notice the parallels to the insidious threat of death stalking me and the thousands of others deteriorating here in Missouri's prisons. Many of us believe that someone is coming to resurrect us by signing a piece of paper that's going to magically open the doors of these giant caskets disguised as prisons, giving us a second chance at life.

For Atrin, Dwayne, Sylvester and Henry, I honestly believe that they were convinced that they'd be "saved" from death by someone, from somewhere, as they each lay dying in a cell—where not even the medical staff wanted to enter to check on them when called to do so. Medical's only concern was to "make them as comfortable as possible."

There are soooooo many games for us to play here.

There is never a shortage of participants either. Sadly, we are going about our daily lives, not realizing that we're just frogs in a pot with the heat gradually being turned up, and we're being boiled alive. We naively wait for legis-

lators, judges, lawyers, prosecutors, senators, our favorite rappers, singers and entertainers to save us from our own hastened deaths, unaware that they are all gluttonously feasting on our misery.

We're just another dollar to those who seek the opportunity to make one.

I keep wondering if the day shall ever come when people imprisoned might see that WE, and only WE are our own salvation. No one is coming to help us! No one is coming to save us!

Every moment we fantasize about being "saved" is a moment better spent **SAVING OURSELVES!**

Who and what are we waiting for? We only get so many chances!!! ♦



**“I** will always believe that I outlived the Missouri State Penitentiary—and that my hopes and dreams survived—because I refused to let the DOC define who I am. Instead, I chose to define myself...by believing in the good that was within me, not the bad things other people had to say about me and those who were incarcerated like me.”

by Keith Brown El, from his speech at Missouri CURE's conference on September 28, 2013 held at Ferguson Middle School.

**For young men of color, police use-of-force is among the leading causes of death, according to a new report published by the National Academy of Sciences.**

## Murder by Patty Prewitt

Doin' time is killin' me  
 killin' time is a murder of crows  
 pickin', peckin' at my fretful  
 eyes winged by crow's feet  
 carved by decades of  
 disappointment

## HB 192 Information *from JMO of Empower Missouri*

**E**lyse Kupfer, an MSW student at Washington University with the Prison Education Project, sent a number of questions about the implementation of HB 192. I requested answers from Adam Albach of DOC, and he sent a reply. See the following:

**Q:** I understand that the first step for eligible individuals will be to contact the Missouri Board of Probation and Parole. Are they required to wait until August 28th to do so, or can they make contact now?

**DOC:** There is no need to contact the board. The board will establish hearing dates or release dates upon notification of a change in an offender's sentence. The notification to the Parole Board will be completed by the offender's Institutional Parole Officer.

Also, no contact is necessary for an offender to be reviewed for eligibility. The department has established a process to identify those impacted.

**Q:** I have the comprehensive list of convictions for which this bill is applicable; however, could you inform me of any resources that would be able to confirm if an individual is indeed eligible?

**DOC:** Due to multiple variables determining eligibility, there is no one resource. Offenders who are serving a minimum prison term based on commitment counts will have to be reviewed individually as criminal history and prior incarcerations are different for each offender.

**Q:** If it is clear that the individual's conviction qualifies for relief per this bill, are they guaranteed release? Or does the Board still have discretion for approval?

**DOC:** Release will be at the discretion of the Parole Board.

**Q:** Is there any estimation of what the timeline will look like? I understand the bill is anticipated to grant the release of 200 people in less than a year; is there a way to know what eligible individuals should expect/be prepared for in terms of time frame? Is there a process in place to determine priority?

**DOC:** I know the Records Officers and General Counsel have a timeline and a way to determine priority. However, the person I need to speak with is

not here today. I will have to get back with you on this one.

**Q:** Aside from contacting the Board, are there any other steps that eligible individuals need to take?

**DOC:** No action is necessary. As stated above, the DOC has established a process to identify the offenders impacted.

We will notify the Parole Board and all offenders impacted by the legislation through our normal procedure.

**FYI:** Any time a change is made on the offenders "face sheet," the offender and their Institutional Parole Officer receive a copy. The Parole Officer will then take the appropriate action to notify the board.

A face sheet is a document that contains personal identification information about the offender, as well as the sentence structure pertaining to their incarceration. Any time a change on the document occurs, offenders receive a copy with notification of the change.

*HB192 is the mandatory minimum reform bill that passed the legislature this year and was signed by Gov. Parson. It goes into effect August 28. The new law does not affect those serving time for violent crimes. ♦*



## Defeated Prosecutor Bob McCulloch Blasts Wesley Bell

*by Hedy Harden*

**T**hree former prosecutors who were terminated by Wesley Bell upon his taking office later sued St. Louis County. Kathi Alizadeh, Ed McSweeney and Jennifer Coffin have been awarded a total of \$170K. According to former prosecutor Bob McCulloch, they were wrongfully terminated, and he's claiming Bell cost the County the money paid out.

Were they wrongful terminations? Let's look at the facts: **Alizadeh** was one of the prosecutors who presented evidence to the grand jury that in 2014 declined to indict Darren Wilson, the Ferguson cop who murdered 18-year-old Michael Brown. Voters elected Bell in dissatisfaction against a discred-

ited Bob McCulloch surrounding the Michael Brown killing.

**McSweeney** criticized Bell publicly on social media the day after Bell defeated McCulloch in the August 2018 Democratic primary.

McCulloch, who hired **Coffin**, said he believes she was fired over bad blood with Julia Fogelberg, a former public defender who is now one of Bell's top aides and spouse of Bell's chief of staff, Sam Alton. "It was just sort of payback," McCulloch said.

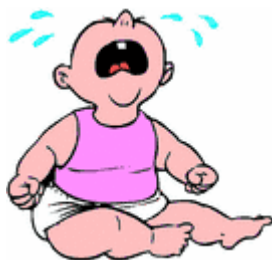
In 2013 a man was arrested for assaulting a police officer. Jennifer Coffin offered a plea bargain, which the man refused. At trial, he was

acquitted of the charge. Later Coffin filed a second case against the man resulting from the 2013 arrest, charging him with resisting arrest.

**F**ogelberg, while defending the man, accused Coffin of "prosecutorial vindictiveness," claiming in court filings that Coffin filed a second case from a 2013 arrest against Fogelberg's client when he refused to plead guilty to the first one. A judge found the man guilty of a misdemeanor resisting arrest charge on the second case.

Coffin now works for the Missouri attorney general's office in St. Louis.

McCulloch's sour grapes appears to be his own attempt at payback against the man who defeated him after 27 years. ♦





## Empower Missouri Criminal Justice Action Team Members Meet with Missouri Parole Board August 2, 2019

*Present: Parole Board Chairman Don Phillips, Operations Manager Steve Mueller, and Pam Rogers of Parole Board staff, who also works with the executive clemency program. From Empower Missouri: Christine Woody & Jeanette Mott Oxford (staff), Ted & Linda Schroeder; Rita Linhardt; Finola Prendergast; Michelle Smith; Cheryl Adelstein; Patty Berger; Mari-kay Roberts; Angelika Mueller Rowry; and Jamie Tomek.*

Chairman Phillips and Mr. Mueller started by sharing some facts about the Parole Board and Department of Corrections:

- ◆ They had 10,661 hearings in 2018
- ◆ There were 32,000 incarcerated two years ago and we are at 27,000+ now, so the trend is downward.
- ◆ Currently five of seven Board positions are filled; the Governor appoints parole board members with Senate confirmation.
- ◆ It is a full-time job.
- ◆ Hearings at prisons near Jefferson City take place in person, but most other hearings take place via video conference.

DOC Director Precythe says, "It's a new day in Corrections," and Phillips noted that it is "a new day in parole too." He said, "We are the Department of Corrections, not the Department of Punishment."

They spoke at length about the new process they are beginning to implement. They will be instituting a grid system that gives offenders a release date much earlier in their sentence, and for many cases a parole hearing won't even be necessary. The Records Office will figure up the time, and Probation and Parole will get the new "institutional face sheet." The Records Office is start-

ing its work by giving priority to the 80 percenters.

This will allow the board to give those offenders who really need a hearing more time and attention. The conversations at hearings will be longer and more revealing to the offender. Barriers to success will be identified.

Some of the changes are being made because of HB 1355 that passed in 2018 for which Chairman Phillips was a sponsor during his final year as a state representative. This bill contained a number of recommendations from the Justice Reinvestment Task Force.

Phase I will begin in September. Training for IPO's (Institutional Parole Officers) was scheduled for August 15 and 16.

They talked about how they overhauled the medical parole system—they streamlined it, made the process shorter and changed the eligibility.

They said they have made their hearing process more efficient. Inmates should be receiving the information about the hearing decision pretty quickly. (Some advocates in the meeting had shared that they or people they know who are incarcerated had a long delay in receiving the hearing decision.)



Chairman Phillips said that the DOC has been good at sanctioning behavior for violations in the past, but not as good at rewarding the behavior we want to see. There is a desire to change this. Director Precythe has told staff, "Get on the train or get left behind."

The Parole Board gets many letters from prosecuting attorneys asking for parole to be denied. Parole Board members are in regular communication with prosecutors, so there may be opportunities for dialogue about why sentencing guideline changes need to be made.

Following are some suggestions the EM team made (besides communicating hearing decisions more quickly):

- ◆ Training on computers and tablets
- ◆ Cultural competency training
- ◆ Re-writing of information booklet about probation and parole in language more accessible to those whose reading level is in the elementary school grades
- ◆ Communicate more thoroughly the reasons a parole is denied so the inmate can address those reasons. "Seriousness of the crime" should not be a reason for a parole denial; that was built into the sentence already. ♦

## An Amazing Story: German Abolitionists of Missouri

On Sunday, June 23, Hedy, Angie and Angie's friend Edith visiting from Germany attended the opening of a play by Cecilia Nadal of Gitana Productions.

The standing room only performance portrayed the significant role of German immigrants in the abolition of slavery in Missouri.

Who knew that German immigrants were



leading abolitionists in Missouri?

After a failed revolution in Europe, in which they had tried to unite Germany on Enlightenment principles, thousands of these Germans moved to St. Louis and the Missouri River Valley.

For these newly arrived immigrants, slavery was in direct contradiction to

their political philosophy. Hundreds of them quickly allied with the Union troops and helped defeat the Confederacy.

German immigrants' fight for abolition, serving proudly in the Union army and publishing newspapers that argued for the end of slavery, helped to create a sense of identity for the newly arrived Americans.

It was an excellent performance. We were moved by the courage and principles held by these new Americans who fought for the freedom of African Americans. ♦

## Summer Activities

### June 2019

- 18 Cure Violence Meeting
- 19 Juneteenth
- 20 Angie returns from 3-month road trip
- 23 An Amazing Story: German Abolitionists of Missouri: a Play (Angie, Edith, Hedy)



### July

- 10 Missouri CURE received \$3K mini-grant from CAMP (Community Arts Media Project)
- 12 Keith released from probation
- 15 KC CURE meeting
- 23 Membership committee meeting (Frances, Hedy)
- 23 Grant project meeting (Angie, Bill, Hedy)
- 24 Bill leaves for Thailand
- 26 STL CURE meeting

### August

- 2 Empower Missouri meeting with parole board (Michelle, Angie)
- 7 Jonathan Jackson murdered 1971
- 14 Meeting of Prisoner Health Committee (Angie, Hedy)
- 15 Ricky Kidd released after 23 years in prison despite innocence
- 15 Angie leaves for 3 months in Germany
- 19 KC CURE meeting
- 21 George Jackson murdered 1971
- 23 STL CURE meeting
- 26 Moberly NAACP banquet
- 27 Michelle sentencing hearing
- 29 SCCC NAACP banquet



### Upcoming:

- ♦ September 20 Legal & Resource Forum, WERDCC
- ♦ September 28 Missouri CURE Conference STL
- ♦ October 5-7 Detroit conference (Keith, Cornell, Malik, HH)
- ♦ October 16 JCCC NAACP annual banquet
- ♦ In the next issue of Turning Point, Latahra Smith interviews Keith Brown EI about his recent release from probation after prosecution resulting from unjustified charges.
- ♦ Also, Keith Brown EI conducts an interview with Ricky Kidd about his exoneration after serving 23 years for two murders he did not commit.



Keith Brown EI being interviewed outside Jackson County Courthouse following his July 12 release from probation.

### Racist Algorithms

Critics have charged for years that risk assessment tools are racist: Because communities of color have higher rates of interaction with law enforcement, supposedly "neutral" algorithms judge them to be more likely to commit another crime if released on bail.

The companies marketing risk assessment tools argue, with some justification, that the alternative is letting people sit in jail for long periods awaiting trial. Now, in a major new study of people who've been arrested, researchers found that risk assessment does skew racially, with nearly a quarter of black defendants who weren't re-arrested being deemed "high risk" anyway.



## To Win a Murder Conviction, Police and Prosecutors Made Up Evidence & Secretly Paid a Witness, St. Louis D.A. Finds

7/26/19 by Meagan Flynn, *The Washington Post*

**T**he State's theory stretched the physical limits of the human body. Somehow on the night of Oct. 30, 1994 Lamar Johnson left his friend's apartment, traveled 3 miles to Marcus Boyd's front porch with one other man, killed Boyd, fled on foot and arrived back at the apartment to continue socializing with friends, all in "no more than 5 minutes."

Now, the St. Louis Circuit Attorney's Office says it knows how prosecutors managed to convince a jury it was true: Police and prosecutors made up the evidence, according to a 67-page motion seeking to vacate Johnson's 1st degree murder conviction and grant him a new trial after 24 years behind bars.

The accompanying investigative report, made public this week, describes a staggering amount of misconduct on the part of homicide detectives and prosecutors that convicted Johnson and sent him to prison for life with no possibility of parole. Not only did detectives write police reports containing invented statements from witnesses, the report found, but the St. Louis Circuit Attorney's Office also made secret payments to the single eyewitness, who was pressured into making the false identification that would ultimately seal Johnson's fate, according to the report. And authorities did all of this, investigators found, in the face of "overwhelming" evidence that Johnson was an innocent man. He has insisted on his innocence the entire time he has been behind bars.

The case is a striking example of how serious misconduct by law enforcement can be brought to the surface by a conviction integrity unit, which progressive District Attorney offices across the country have set up to investigate potential wrongful convictions.

In this case, St. Louis Circuit Attorney Kim Gardner created the unit with the help of a Federal grant in December and in partnership with the Midwest Innocence Project, which had already been working on Johnson's case since 2008.

In the report, the unit describes the evolution of the police investigation as "a series of circumstances that are alarming and offend the most basic notions of fairness and justice." By contrast, the Trial

Prosecutor, Dwight Warren, who is no longer with the office, described the report as "nonsense," the St. Louis Post-Dispatch reported.

The investigation into Johnson's case found that a single homicide detective, Joseph Nickerson, authored 4 false police reports describing possible motives for Johnson to kill Boyd, such as that Johnson had a drug beef with Boyd. Years later, all 4 witnesses would review the reports and swear under oath that they never said what Nickerson attributed to them. The only eyewitness, Greg Elking, failed to identify Johnson several times before pointing to him at trial. He would be paid more than \$4000 for his cooperation, payments not discovered until the CIU's investigation in 2019. The men actually responsible for killing Boyd in a botched robbery would reveal themselves much sooner. They confessed as early as 1996 and 2002, saying in sworn Affidavits that Johnson was not involved. Johnson continued to languish in prison anyway.

"I know Lamar Johnson is innocent of that crime because I was there and Lamar Johnson was not there," the confessed shooter, James Howard, stated 17 years ago. The homicide investigation seemed poisoned from the start, investigators found.

Elking had come to pay a small drug debt. Presented with a photo array of suspects, Elking told Nickerson he never saw the shooters' faces. But Nickerson told him that if he cooperated as a witness, the State would help his family financially.

Elking agreed. He did not positively identify Johnson, saying only that his eyes looked "familiar." In the police report, however, Nickerson wrote that Elking did identify him, a fabrication he used to support an arrest warrant for Johnson, the investigation found. Immediately after his

arrest, Johnson explained his alibi to Nickerson, insisting he was with his girlfriend at their friend's apartment and that there were phone records to prove it.

Curiously, a second detective, Ralph Campbell, interviewed Johnson just minutes after Nickerson and claimed in a police report that Johnson made a cryptic

confession, claiming Johnson said he "let the white guy live," in reference to Elking. The conviction integrity unit believes this confession was fabricated too.

"The CIU does not believe that Johnson volunteered a confession to Detective Campbell after he denied involvement at arrest, during questioning, throughout trial,

and for the 24 years thereafter," prosecutors wrote. Police never investigated his alibi, the investigation found. Instead, they put him in a photo lineup and hauled Elking in to ID him.

On the way to the station, Nickerson told him that Johnson was believed to be responsible for a number of unsolved homicides in the city, and so Elking's cooperation was "critical to providing justice for Boyd and his family," according to the report. Elking failed 3 times to identify Johnson. And yet still, this was not the end of Elking's cooperation. In the elevator, police wrote in a report, Elking confided in Nickerson that he "wanted to do the right thing" but that he was "scared" and "needed time to think about what I should do." The police report states that Elking then admitted he "lied" about the previous wrong identifications, and now was ready to make the right ID. He allegedly then chose Johnson and Phil Campbell, the co-defendant who confessed. Years later, first in a confessional to his pastor and then to prosecutors, Elking would explain that Nickerson gave him the answers and that he went along out of fear, a guilt that weighed on his conscience until 2003, when he told his pastor he had to lift it. "I regret not coming to you or anyone else



St. Louis Circuit Attorney Kim Gardner

**Last year, according to the National Registry of Exonerations, there were 44 Conviction Integrity Units in the country that obtained 58 exonerations of innocent men and women.**

**See Corruption page 7**



## Corruption from page 6

sooner,” he wrote. “I don’t believe it was the right thing to do then and more so now.” On Elking’s false ID alone, bolstered by Nickerson’s false reports from witnesses on a possible motive and a jailhouse informant who had incentive to lie, a jury convicted Johnson in July 1995.

Remarkably, prosecutors did not dispute his alibi. They simply argued that, in the 5 minutes Johnson left the apartment, he had time to travel 3 miles to Boyd’s home to kill him and then come back. Despite all of this, Johnson lost at least 6 appeals in State and Federal courts, even when Johnson presented the 2 sworn Affidavits from the confessed killers. Part of the problem was that St. Louis Circuit Attorney and St. Louis Police Department continued to block him from obtaining information. When he filed an open records request in 2009 seeking any payments the circuit attorney or police department made to witnesses, he was told there were no records.

In fact, the conviction integrity unit found 63 pages of information about the secret arrangement plus a handwritten ledger describing more than a dozen payments totaling \$4241, apparently to fund housing and moving expenses. The payments began on Nov. 4, 1994, 5 days after the shooting and the very first day Nickerson interviewed Elking. “The documentation in the State’s file describes Elking as an “essential witness” and the CIU agrees,” prosecutors wrote in the investigative report.

“Without Elking, there was no case against Johnson.” The St. Louis Metropolitan Police Department did not immediately respond to a request for comment. Attempts to reach Nickerson and Warren were unsuccessful. The motion for a new trial filed Monday makes clear that prosecutors consider Johnson an innocent man and do not intend to retry Johnson for murder should a Judge grant the Motion.

The unit said it tracked down some of the old jurors in Johnson’s case, presenting them with the findings. All of them said they would have never convicted him, had they known the facts. On Tuesday, the Midwest Innocence Project said in a statement that it “praises Circuit Attorney Gardner and the CIU for their work to correct an injustice.”

“After more than 20 years,” said Tricia Bushnell, Executive Director of the Midwest Innocence Project, “the system is finally being held accountable for its failures in Lamar Johnson’s case.”

Update 8/27/19, The Washington Post

A Missouri judge has denied a petition for a new trial for a man held in prison for 24 years — even though St. Louis’s top prosecutor now says the man is innocent and has conceded that her office engaged in serious misconduct to win his conviction.

The judge’s reason: Prosecutors missed the deadline to file the motion by “approximately 24 years.” Circuit Judge Elizabeth B. Hogan said court rules required the defendant, Lamar Johnson, to file his motion for a new trial within 15 days of his conviction, even though the prosecutors only uncovered new evidence supporting his innocence in recent years.

The Friday ruling is a blow to St. Louis’s new conviction integrity unit, which, like similar offices founded in other large U.S. cities in recent years, was set up

to uncover past injustices. Prosecutors nationwide had urged Hogan to grant St. Louis Circuit Attorney Kim Gardner’s motion for a new trial, saying they were “troubled” by the judge’s focus on a timeliness rule over the seriousness of the misconduct and evidence of innocence that the unit had found.

But Hogan was not swayed.

Johnson’s attorney, Lindsay Runnels, told The Washington Post that she and the Midwest Innocence Project planned to appeal the order. She argued that the court ignored previous rulings that have waived the 15-day deadline in the face of extraordinary circumstances and in the interest of justice. Gardner’s office also plans to appeal, the St. Louis Post-Dispatch reported.

“On so many levels, it’s a real interesting decision,” Runnels said. “There’s not a single word in it about Lamar Johnson’s innocence or the claims of his innocence. This is what we should expect prosecutors to do in the face of injustice. Instead, [the judge] is telling Lamar Johnson there’s no remedy for him in this court. I don’t think that can be the state of the law.”

In deciding whether to grant Johnson a new trial, Hogan consulted the state attorney general’s office — saying she was concerned about whether Gardner’s office had a “conflict of interest” in accusing its

own former prosecutors of misconduct. She considered the attorney general to be a more impartial third party. The attorney general advised that she did not have authority to grant the new trial, saying other state and federal courts that have reviewed Johnson’s claims in the past have rejected his petitions.

But Runnels argued Hogan’s concern over a “conflict of interest” was unusual, and her consultation with the attorney general was unnecessary. In a friend-of-the-court brief, 43 elected prosecutors warned Hogan that viewing Gardner’s efforts to illuminate her office’s past misconduct as a “conflict of interest” would undermine the ethical duty to correct wrongful convictions.

They cited a 1984 Missouri appeals court ruling that said a “perversion of justice” would occur if “we were to close our eyes to the existence of the newly discovered evidence” solely because of a missed deadline.

“When the existence of a wrongful conviction becomes clear, an obligation arises to intervene and halt the continued incarceration of an individual previously prosecuted by that office,” the prosecutors wrote in the brief. “As a duly elected minister of justice, a prosecutor’s obligation to correct a known injustice *never* terminates. Because that obligation never terminates, neither does the prosecutor’s right to pursue an appropriate remedy in court, as the Circuit Attorney has done here.”

Hogan said she recognized that other conviction integrity units nationwide have been able to overturn wrongful convictions, but believed the Missouri General Assembly had not passed laws providing the state’s CIUs the ability to waive procedural rules.

Runnels said the legal defense team was prepared to argue to an appeals court that Hogan’s reasoning was flawed. Hogan did not immediately respond to a request for comment.

“The narrative surrounding time limits, nonexistent conflicts, and who can file what document in what court only serve to distract from what matters in this case,” Runnels said. “Lamar Johnson is innocent. The evidence is overwhelming. The State agrees. That should be enough.” ♦



St. Louis' first African American prosecutor has been under relentless attack since Day One of her administration. The Organization for Black Struggle (OBS) and Missouri CURE say "Hands Off Kim Gardner!"

## Thousands Freed From Prison Custody in DOJ Sentencing Reform

July 19, 2019 *Heard on All Things Considered*

**M**ore than 3,100 people will leave Bureau of Prisons custody starting Friday, part of what Justice Department officials call "a truly monumental effort" to comply with the First Step Act, a criminal justice law passed by Congress last year.

Most of the offenders being freed have been convicted of drug-related crimes and have been living in halfway houses across the United States in preparation for their release, acting BOP chief Hugh Hurwitz told reporters at a news conference in Washington.

About 900 of the inmates are subject to detention by local authorities or immigration officials, and their fate will be up to states or the Department of Homeland Security, he said.

The Justice Department announced that 250 more inmates who are elderly or terminally ill have transitioned into home confinement or compassionate-release programs since President Trump signed the law last December.

Those programs existed in some form before the First Step Act, but advocates for prisoners and their families said they were used only sparingly and now are somewhat easier to access.

"The department intends to implement this law fully and on time, with the goal of reducing crime, enhancing public safety and strengthening the rule of law," said Deputy Attorney General Jeffrey Rosen.

Authorities also unveiled a new risk assessment tool designed to identify prisoners who could benefit from prison programming that would allow them to win credits that count toward early release under the law.

Inmates will be reassessed every six months under that new program.

In a joint statement, Sens. Charles Grassley, R-Iowa, and Dick Durbin, D-Ill., said they would "vigilantly" review the new risk assessment system.

"It's critical that the assessment does not disproportionately designate minorities as having a higher risk of reoffending," the senators said.

### Questions about implementation

The Justice Department enlisted a think tank, the Hudson Institute, to assist with the assessment effort. But that decision has come under fire from key Democrats in Congress.

"The Hudson Institute and its leadership have opposed sentencing reform, opposed the First Step Act's reforms, and authored an article entitled 'Why Trump Should Oppose Criminal Justice Reform'," as House Judiciary Committee Chairman Jerrold Nadler, D-NY, and subcommittee chairwoman Karen Bass, D-Calif., said earlier this year.

"We are concerned that the selection of a biased organization lacking requisite expertise may reflect a lack of intent to diligently and effectively implement the bipartisan criminal justice reforms," they said.

### Congress Clashes With Justice Dept. Over Its Decisions Not To Defend Laws

Advocates seeking to overhaul the federal system welcomed news Friday that the Justice Department is moving ahead to implement the First Step Act. But they said they have ongoing concerns about funding and oversight, and they want Congress to hold the administration accountable.

Attorney General William Barr has been the subject of criticism that he holds outdated views about crime and punishment from the earlier era when he served as attorney general.

"There's a lot of skepticism over whether this Justice Department is going to fully implement the law," said Inimai Chettiar, legislative and policy director for the Justice Action Network.

### Seriously Ill Federal Prisoners Freed As Compassionate Release Law Takes Effect

"We definitely believe that Congress needs to step in and ensure that this is happening and to also fully fund the law because the only way that these recidivism reduction programs are going to be effective is if they are fully funded." Still, a group that works with inmates and their families said that whatever its failings, the First Step Act is making a difference.

"Every day of freedom is important," said Kevin Ring, president of the group Families Against Mandatory Minimums. "We're happy for the families who get to welcome home their loved ones a few weeks or months early." ♦



## Kansas to send Hundreds to Private Prison in Arizona *The Wichita Eagle, 8/10/19*

**H**undreds of Kansas inmates will soon wake up each day in an Arizona city.

Kansas is turning to prison company CoreCivic to house up to 600 inmates out of state in an attempt to fight prison crowding. The outsourcing will cost millions of dollars a year.

Officials in charge of the state's prison system — buffeted by years of staff shortages and rising inmate populations — say they don't have better options.



For \$74.76 a day, CoreCivic will transport, house and provide training, treatment, recreational and educational services for Kansas inmates. Housing 600 inmates a year would cost about \$16.3 million.

The Kansas Department of Corrections said it will send inmates to the Saguaro Correctional Center in Eloy, Arizona, in groups of 120. Initially, Kansas plans to house 360 inmates at the facility, but could eventually expand that to 600.

The contract lasts a year and could be renewed for up to three years.

The announcement comes as the state's prison population hovers around 10,020 — 100 inmates over capacity.

According to the department, state officials will have the right to inspect the Arizona facility at any time.

### CoreCivic controversy

CoreCivic runs dozens of facilities and has been sued over allegations of inadequate staffing and poor service.

More recently, it has faced criticism for operating detention centers for Immigration and Customs Enforcement. ♦



## Black Leaders and the COINTELPRO

by Malik (Allah) Nettles

**I**nvestigate black leaders and organizations, and create as much propaganda against them as possible to vilify their achievements and accomplishments.

Find any dirt you can, even if it's a speck that can be tied to finances, which will normally be the circumstances of overworked black and impoverished leaders, and magnify it tenfold with the pressure of accusations until it breaks the spirit of the black leader, and causes so much frustration and anxiety from having to constantly be on the defensive, that s/he becomes distracted and looks for a way out...s/he breaks.

Next, replace him/her with someone who can be controlled, or (worst-case scenario) the black leader becomes a martyr and is assassinated, but still—replace him/her with someone who can be controlled.

Leadership, true leadership, comes with a price and is the most feared natural element known to man that there will ever be, because it is the causative element of

change.

For “the director of fate,” for the creator of revolution feared by the government and institutions designed to oppress, their solution to black leadership—their remedy—is the assassination of character.

Every potential leader and activist must guard him/herself and be aware of the operations as they occur or they will succumb to these tactics and defeat themselves.



**O**ur greatest weapon against such opposition is transparency, our greatest strength is unity, and our passion should always be fueled by righteous intent.

When you are a leader who harnesses the influence to direct change, you must understand that your life is not your own,

but belongs instead to the greater cause, and that all those leaders before you and who have sacrificed themselves to ultimate change have experienced your same frustrations, but refused to give up and are now immortalized for their contributions. As you grow, learn to see them in you, and you in them, and never fail to move forward, regardless of what you may face.

Sincerely,  
your Most Humble Servant

*Ed: COINTELPRO is the government's counterintelligence program that targeted black organizations and activists in the 60s and 70s and continues today. I cannot help but think about the strategy and tactics employed by Native Americans, who did not hesitate to retreat when needed in order to gain a better advantage. It is sometimes necessary to step back and focus on survival, awaiting a chance for more optimal conditions in order to rise again.*

*A luta continua! ♦*

## Prisoner Lives Matter – Time for an Accounting

**W**e are approaching the three year mark of the new DOC director Ann Precythe taking office, and it's time to mark progress. Two years ago, we asked what would change when a woman takes over a mud-caked, male-dominated theocracy, where PREA wasn't but something to wipe your butt with, and where medical neglect and other human rights violations were rampant.



Some efforts to implement change have taken place; in other areas it appears that ‘business as usual’ has continued unabated.

Meanwhile, with the help of a grant, we have started publishing some of your stories on our web page. They can be found under “[missouricure.org/prisonernarratives](http://missouricure.org/prisonernarratives).”

Have your family members check it out. Currently we have addressed issues in administrative segregation, joining the national campaign to END solitary confinement. Our goal is to raise public awareness of the fact that prolonged periods of isolation and forced double-celling in adseg are torture.

Soon we will use our accumulated

documentation of your past correspondences to expand the focus.

To be able to give an accurate account of what has changed –positive or negative – or which concerns are still prevalent in your lives, we need your help. So, here (again) are our questions:

- ♦ What changes have taken place in the way you are being treated and regarding opportunities for rehabilitation?
- ♦ Are PREA violations that prisoners suffer by staff being addressed differently now? Have there been any changes in how your complaints are being handled? We'd like to particularly hear from folks who have been interviewed during PREA audits.
- ♦ What about your access to, and use of, camera footage to clear prisoners of arbitrary charges?
- ♦ Any changes in what's euphemistically called ‘Use of Force’?
- ♦ What about conditions in adseg/solitary confinement?
- ♦ How about retaliation by correctional and/or medical staff when prisoners insist on their rights?
- ♦ How about other kinds of abusive,

negligent or arbitrary treatment, such as failure to protect?

- ♦ Any changes in rules and regulations, internal policies, or how they are being implemented?
- ♦ What are your experiences regarding access to or placement in treatment programs?
- ♦ How do the new parole guidelines and procedures impact you, and are they helpful with re-entry?
- ♦ And last but not least, since the contract with Corizon Health Inc. was renewed regardless of egregious lack of adequate medical care, have you experienced any changes in your health/mental health care?

**T**he last question above is particularly addressed to those of you who have reported health concerns under Lombardi's watch. We need updates since we started working on another angle of utilizing your information.

Even if I have not been on the forefront of activities, you have been (and are) always in my thoughts.

Angie Mueller-Rowry

Missouri CURE Prisoner Health  
Committee Coordinator ♦

## Adseg Control Units are Modern-Day Torture Houses

*Although the author gave permission to use his name, we have changed it in an effort to avoid reprisal.*

**B**asic principles are routinely violated in these control units, whether they are called administrative segregation (adseg), solitary confinement, secure housing units or whatever. We're subjected to restrictive and disciplinary sanctions that amount to torture: indefinite solitary confinement, prolonged solitary confinement; placement of prisoners in cells that are constantly illuminated for 24 hours daily; and collective punishment to instill fear in the prison population.

There has been a barbaric practice of placing people on "meal loaf". This is an unknown substance that is ground, mashed and blended. It's then formed into the shape of a football and placed in wax paper to be frozen. This is then served to a person for a minimum of 9 meals for minor conduct violations. A prisoner should never have his diet reduced for punitive reasons. We have a natural right to nutrition.

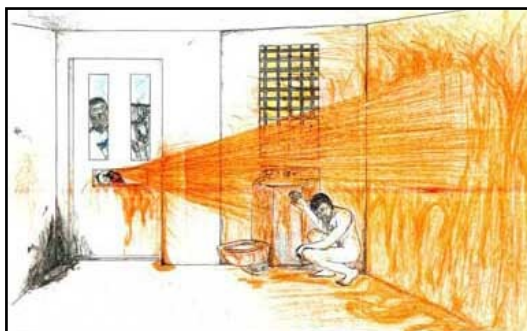
According to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), we should be provided with "food of nutritional value adequate for maintaining strength and health, food that is well prepared and served"—not a substance that causes men to vomit and to suffer indigestion and flatulence.

We're being forced to cell with men we're not compatible with, due to gang affiliation, racial ideology, religious choice, sexual preference and mental status. This causes safety and security concerns. At times, assaults, rapes and murders have occurred due to cell placement. When a person attempts to exercise his right, staff refuse to pull us out of these hostile and potentially fatal environments, which makes them guilty of failure to protect when a person requests protective custody because his well-being is in jeopardy. If one is able to get a staff member to pull him out, he is strip-searched, which is done constantly, and his personal property is thrown around and taken.

"Searches should be conducted in a manner that is respectful to the inherent human dignity and privacy of the individual being searched, as well as principles of proportionality, legality and

necessity. Searches shall not be used to harass, intimidate or unnecessarily intrude upon a prisoner's privacy."

We are then placed on restraint benches, which consist of 4 or 5 square pegs welded together and unevenly spaced so that our skin bunches and is scraped, causing blisters and pain. Our hands are cuffed behind our backs and our legs shackled. We must sit like this



for a **minimum** of two hours with no food or bathroom breaks. Some men urinate on themselves after 8 to 10 hours without a break.

"The use of chains, irons and other instruments of restraint which are inherently degrading shall be prohibited."

No provisions are made for furthering our education, nor do we have access to a collection of books for all categories of inmates, adequately stocked with both recreational and instructional books. There are only romance, crime and suspense novels, maybe an occasional religious manuscript.

**F**or those of suitable age and physique, we don't receive access to physical exercise equipment during our brief period of exercise. If you call being moved from a cement and steel cell, barely bigger than a queen-sized bed, that's illuminated by an overhead light 24 hours daily, into a chain-link cage an arm's length wide and 7 steps in length exercise. No pull-up, dip bars or machine weights are afforded to us who are assigned to indefinite solitary confinement, prolonged solitary confinement, or disciplinary segregation for 30 days or more. The average time in adseg status goes from 90 days to 12 months. Some do more if given an extension.

Solitary confinement is torture.

Scholars and social scientists have amply documented how segregation has no social relevance. The scales of justice seem to be tipped to pulverize, not assist or rehabilitate.

We are at risk of psychological harm because the conditions of confinement are far too severe to serve any kind of penological purpose. We reside in filthy, tiny bathroom-sized cells. The monotony is endless, and some lack human contact. This descends us into madness.

Many of us suffer from forms of insomnia, which leads to delusion, hallucinations, paranoia, and panic attacks. All have experienced some variation of these. Men come into adseg normal, and six months later they are in an alternate reality. They begin to self-talk, pace the floor for hours, sometimes days, in a manic state. Others have stripped them-

selves naked, urinated on themselves, and smeared feces on their bodies. Some begin to become sexually deviant, openly masturbating to male and female staff, even exposing themselves to other prisoners. It's a sad but honest truth.

We are constantly harassed, shackled, tortured, ridiculed and objectified without defense—we the helpless need to be defended. If not, we will languish and rot in these control units.

We need your help. Please contact someone in authority. Let them know that you want them to end the cruel and draconian practice of prolonged adseg and request an investigation be conducted by an outside entity into these barbaric conditions. Thank you, a lot.

**D** may be targeted for expressing this atrocity. This is the corrupt nature of my resentful administration. So this is my final and last option. We need help. It is urgent.

Please...

Benjamin D.  
June 2019

*Ed: Quotes are selected excerpts from the Mandela Rules as described above. If you would like more information on how you can help, give us a call at 314-730-2873 or 816-377-2873*

## And then, there's Norway...

In stark contrast to U.S. prisons and their horrors, Norway's prison system starts preparing prisoners for release from the day they enter. Focus is on restoring them to a life of freedom and productivity. Prisoners are offered daily training and educational programs.

BBC's Emma Jane Kirby visited the maximum security Halden Prison and reported her findings to Reuters on July 7, 2019.

Twenty years ago, Norway moved away from a punitive "lock-up" approach and sharply cut recidivism rates. Prison officers are trained to serve as mentors and role models for prisoners.

Are Hoidal, the prison governor at Halden Prison, says, "Guards and prisoners are together in activities all the time. They eat together, play volleyball together, do leisure activities together, and that allows us to really interact with prisoners, to talk to them and to motivate them."

The architecture of Halden Prison has been designed to minimize residents' sense of incarceration, to ease psychological stress and to put them in harmony with the surrounding nature.

A thick, curving 24 ft.-high concrete wall snakes around the circumference of the prison, but there's no barbed wire or electric fence in sight and you really have to look for the discreet security cameras.

There are movement detector sensors on each side of the wall, Hoidal assures us, but no one has ever tried to escape.

"It is not easy to have your freedom taken away," says Hoidal.

"In Norway, the punishment is just to take away someone's liberty. The other rights stay. Prisoners can vote, they can have access to school, to health care; they have the same rights as any Norwegian citizen. Because inmates are human beings. They have done wrong, they must be punished, but they are still human beings."



The idea is to give them a sense of normality and to help them focus on preparing for a new life when they get out. Many inmates will be released from Halden as fully qualified mechanics, carpenters and chefs.

"In Norway, all will be released—there are no life sentences," he reminds me. "So we are releasing your neighbor," he continues. "If we treat inmates like animals in prison, then we will release animals onto your street." The maximum sentence in Norway is 21 years.

"If you don't have opportunities and

you are just locked in a cage, you don't become a good citizen."

Once every three months, inmates with children can apply to a "Daddy in Prison" scheme which, if they pass the

necessary safeguarding tests, means they can spend a couple of nights with their partner, sons and daughters in a cozy chalet within the prison grounds. It's a big privilege for them, but they have to earn it.

***"In Norway, the punishment is just to take away someone's liberty. The other rights stay. Prisoners can vote, they can have access to school, to health care; they have the same rights as any Norwegian citizen. Because inmates are human beings. They have done wrong, they must be punished, but they are still human beings."***

When Kirby asks Hoidal about the level of violence in Halden prison, he looks genuinely surprised. She tells him that in England and Wales, assaults on staff have almost tripled in five years and that there were 10,213 assaults on staff in 2018, with 995 of those classed as serious.

He scratches his head.

"Of course, in some of our older prisons there is occasional violence, but I really don't remember the last time we had violence here," he reflects. "Maybe we had one or two incidences of spitting?"

There certainly is drug dealing at Halden, he admits, but these are not drugs like heroin and spice that have been smuggled into the prison from outside, they tend to be medications—opiates and painkillers—that inmates have been prescribed by prison doctors. ♦

## CURE Conference in Detroit Sponsored by The Sentencing Project

As part of its 2019 campaign to abolish life sentences, the Washington-based Sentencing Project has obtained a grant of \$25K from Open Society, which will cover expenses for about 50 CURE members around the country to attend a meeting in Detroit October 5-7. CURE leaders have been invited, and transportation



and hotel rooms will be covered. Free

breakfast is offered by the hotel. Keith and Hedy have made plans to rent a car and drive to Detroit October 5. The Missouri CURE leaders will be part of a panel.

National CURE president Charlie Sullivan asked if we could bring Cornell Jackson and Enoch (Malik) Sellassie along, after seeing their picture and reading about them in the Winter issue of Turning Point. The men were released last year after serving 47 and 30 years, respectively, in Missouri prisons. ♦



**Missouri CURE**  
**P.O. Box 28931**  
**St. Louis MO 63132**



## ***Fight Mass Incarceration—and CURE the Madness!***

**Disclaimer:** The articles in this newsletter are for informational purposes only. Nothing in this newsletter is intended to “promote, incite or advocate disorder or the violation of state or federal law, nor to promote, incite, advocate, facilitate or otherwise present a risk of lawlessness, violence, anarchy or rebellion against a government authority”...or any of the other ridiculous excuses that the Department of Corrections frequently uses to reject Turning Point, the newsletter of Missouri CURE, simply because they don’t want prisoners to have access to the information we are trying to provide.

### ***Asante Sand!***

Many thanks to the following people for their generous contributions: Dennis Baker Bey, James Bell, Justin Bennett, Torin Dyson Bey, Ryan Harrison, Kwan Johnson, Jerome Jones, Jack Lindsey, Lance Livingston, Fredrico Lowe Bey, Eric Miles, Nathan Spencer, and Dorothy Yeager. Special thanks to the Community Arts Media Project for a grant of \$3K; to MCC NAACP for its generous donation of \$500.00; and to the SCCC NAACP for its generous donation of \$250.00. Once again, a very special thanks to our super-giver Carol Corey for her continued contributions and support.

### **Join Missouri CURE!**

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Please check the annual membership type:

- ☐ Prisoner      \$2.00 \*
- ☐ Individual      \$10.00
- ☐ Lifetime      \$100.00

★ or 5 stamps welcome if allowed.

☐ Donation \$ \_\_\_\_\_

☐ New Member      Renewal      ☐

Make checks payable to Missouri CURE.

### **Missouri CURE's 16th Annual Conference:**

#### **Impact of Incarceration on Women & Children**

**Saturday, September 28, 2019 10am-4pm**

*Bellefontaine Neighbors Recreation Center*

9669 Bellefontaine Road (North St. Louis County)

**Keynote Speaker: Andrea James of Boston MA**

*Founder/CEO of The National Council for Incarcerated & Formerly Incarcerated Women & Girls*



- ♦ Free Admission
- ♦ Lunch Provided
  - ♦ Awards
  - ♦ Workshops
  - ♦ Entertainment

No reservation needed, but we do need names and head count to provide food; email [hedyharden995@gmail.com](mailto:hedyharden995@gmail.com) or call 314-730-2873. If you are a former prisoner, a loved one of someone incarcerated, or a member of society concerned about justice, you won't want to miss this special event! All are Welcome!

*Donations to Missouri CURE are gratefully accepted and will be used to benefit prisoners and their families and loved ones. Help support our upcoming conference which will educate the public about the plight of women prisoners.*

