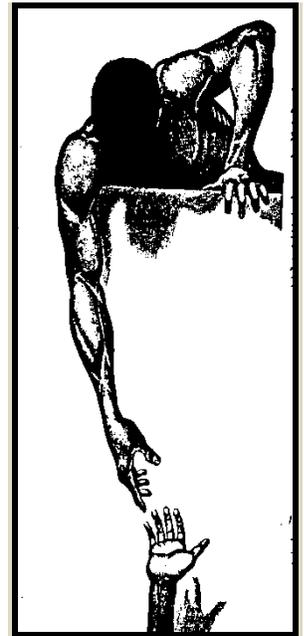


CURE-NY *Newsletter*

To Reduce Crime and Uplift Society Fall 2014

Published by the New York Chapter of CURE, *Citizens United for the Rehabilitation of Errants*
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“He ain’t Heavy”
By Gilbert Young

The CURE newsletter is printed and mailed to nearly 1,000 people, with over 500 sent to those incarcerated and unable to receive the email edition. We appreciate your consideration and hopefully membership. Thanks

Time to have a new look at the issues brought up in the Cicero case. (*Cicero V Olgiati – 1975-1979*) by Jim Murphy CURE Board member

In 1975, Inmates filed a lawsuit in the United States District Court for the Southern District of New York “*challenging the standards and methods by which the parole board granted or denied parole on the ground that they were so arbitrary as to have violated the requirements of due process*”. The court allowed the case to go forward rejecting the State’s argument opposing the suit and holding that the procedures “*raised a serious question as to whether the statute was not unconstitutionally vague*.”

By 1979, a new parole statute had been signed into law by Governor Carey who underlined the law’s intent: “*..it permits a reasonable expectation of parole when a minimum sentence, fixed in accordance with the guidelines, has been served, provided the inmate fulfills the requirements of statute*”. (On approving L.1977, c. 904 Aug.11 1977)

With the law passed the plaintiffs dropped their case and the issue became moot. The attorney for the plaintiffs explained why.

*“In the summer of 1977, the New York State Legislature enacted a new parole statute which, together with its regulations, thoroughly revised the old law. N.Y.Exec.Law §§ 259 to [***] 259-r. (Supp. 1972-78). The new statute and regulations fix a minimum range of imprisonment for each inmate, based on severity of sentence and prior criminal record, and create a presumption in favor of parole once the minimum term has been served unless certain specified aspects of an inmate’s record are found unsatisfactory.Plaintiffs have advised the court that they are satisfied that the new parole statute is sufficiently structured to meet the objectives of the lawsuit. (Letter of plaintiffs’ counsel, May 15, 1979);”*

However, 25 years later it’s obvious that the intent of the law is not being followed. People with assessments of low risk are denied over and over again with no explanation except the nature of the crime.

“At risk to commit another crime, and ... create disrespect for the law? Really?” That’s what the Board decided in denying Mohaman Koti parole in 2013. Mohaman was 85 years old, having multiple medical problems and confined to a wheel chair. Sentenced on a 25 to life in 1978, he had been in prison for 35 years and had a low risk assessment and positive record. Luckily on a 2014 appeal, a judge ruled that the board’s basis for denying him parole was irrational and called for a new hearing. After a split decision in an August hearing, he won release in September.

The Crisis of the Aging Prison Population The aging population incarcerated in our nation’s prisons has exploded over the past two decades, but a new report from the **Osborne Association** finds we are woefully unprepared to meet their needs. By 2030, one-third of all incarcerated individuals will be over 55. The U.S. currently spends \$16 billion to incarcerate individuals over the age of 50, and the per-prisoner incarceration cost of elders over 50 is more than double that of younger, more able-bodied individuals. The recidivism rate of adults over 65 is just 4 percent, compared with 43.3 percent for all individuals. However, the reports finds that compassionate release laws for the elderly are rarely used and reentry plans are extremely difficult for this population. The report recommends numerous ways to overcome these obstacles.

Mental Health Care for people incarcerated (by: Cheryl L. Kates-Benman Esq.; Co-President) The issue of care is in the forefront of correctional issues at this time primarily due to the issues with solitary confinement. Due to the recent lawsuit, settled by the NYCLU in the **Peoples** case, the NYS Department of Corrections recently came under fire and agreed to implement changes to improve conditions in NYS Prisons including changing how they manage the mentally-ill population when administering disciplinary sanctions limiting this population’s exposure to the harsh conditions of the SHU. A hearing to address concerns regarding the issues will take place November 13, 2014 in the NYS legislative offices. (A newspaper account of that hearing is the next article)

Learning to treat prisoners with signs of mental illness (Albany Times Union 11/13/14)

In December 2010, Damian DePauw realized that he was experiencing symptoms of mental illness. ...He asked a corrections officer for help, and was told he'd have to wait for a nurse. The nurse told him that the psychiatrist who could diagnose him and prescribe medication was gone for the day — he'd have to wait out the weekend until the psychiatrist returned on Monday. He made it to Sunday. DePauw, who now works as a mental health advocate and lives in Newburgh, told legislators at a Thursday hearing on mental illness in correctional settings that he grew delusional as the weekend progressed, and finally attacked a fellow inmate. For that, he landed in a concrete and steel cell, where he slammed his head against the door until he was unconscious, and eventually ended up in state prison. DePauw's story was one of several that members of the Assembly's committees on Mental Health and Developmental Disabilities and Correction heard on Thursday. They also heard from advocates and officials who emphasized the need for changes in the way inmates with mental illnesses are handled in the state's jails and prisons. Advocates say the problem starts from the time a mentally ill person is arrested, and often worsens as he or she travels through the criminal justice system.

DOCCS ends SHU for those under 18 In response to a lawsuit brought by **Prisoners' Legal Services**, DOCCS has changed its policies on segregated confinement and will no longer place inmates under the age of 18 in SHU's. The settlement was filed on October 17, 2014 in New York State Supreme Court and includes:

- A one time review of all juveniles in SHU;
- 2) An assessment of every juvenile currently held in SHU and formerly held in SHU up to the age of 21 to determine their need for an individual education plan;
- 3) The hiring of social workers to work with juveniles in the new housing units;
- 4) The enactment of a new regulation that will consider age as mandatory mitigating factor in disciplinary cases;
- 5) Limiting of disciplinary confinement for juveniles; and
- 6) Training hearing officers in the new procedures and rules.

This settlement follows an earlier agreement on restricting segregated confinement for those with serious mental illness or who are intellectually challenged. We will report more in our February Issue.

January through September 2014 PAROLE BOARD RELEASES – A1 VIOLENT FELONS – DIN #s through 2001 (unofficial research from parole database)

Total Interviews	# Released	# Denied	Rate of Release
175 Initials	41	134	23%
706 Reappearances	209	497	30%
881 total	250	631	28%

75% of the AI felons over 60 years of age were denied parole from January through September 2014, including 6 of the 10 over the age of 80.

Re-Entry Housing by: Cheryl L. Kates-Benman Esq.; Co-President

Recently, much progress is being made with filing lawsuits to advance criminal justice issues. **The Fortune Society** joined with attorney John Relman and filed a federal suit under the Fair Housing Act against private landlords in Queens who are alleged to deny equal housing opportunities to people with a criminal record, affecting African-Americans and Hispanics in a disparate manner. The suit names defendants, Sandcastle Towers Housing Development Corp., Sarasota Gold LLC and Weissman Reality Group. The case alleges denying housing to people with a criminal record is a civil rights violation. This case was filed in the Eastern District of NY. The attorney is out of Washington DC .For more information contact The Fortune Society 29-76 Northern Blvd Queens 11110 <http://fortunesociety.org>.

Kudos to Fortune to standing up for the rights of people with a criminal record!

What's happened to COMPAS by Christopher Ng Board member

In 2011, the New York State Legislature sought to modernize the way parole release decisions are made by amending the current law. These amendments were intended to more accurately measure whether an inmate should be released to parole, using scientific data, employing a forward-looking approach focusing on rehabilitative efforts rather than the unchangeable past. The change to Executive Law §259-c(4) required that written procedures be used to assist in making parole decisions. The COMPAS Risk Assessment was meant to be this tool. TAP procedures were also placed into effect to address the change. Collectively, these new procedures were to be considered along with the existing statutory factors, to promote fairness in the parole process. Unfortunately, inmates deemed to be low risks for reoffending are routinely being denied parole without sufficient explanation as to why the Board disagreed with the COMPAS or TAP results. In other cases, COMPAS may not even be applied. These are violations of statutory law that often go unnoticed, or unchallenged, due to the long waiting periods typically associated with receiving decisions on administrative parole appeals. The Parole Board must be urged to faithfully honor the legislative intent behind the recent amendments when making parole release decisions—respecting the goal of rehabilitation and the reality that change is possible.

Gov. Maloy did it in Connecticut's Board of Parole ---Time for NY By Deb Bozydaj CO-President

Kenneth Ireland, a man who spent two decades in prison for a crime he did not commit is among Gov. Dannel P. Malloy's choices for a full-time post on the Board of Pardons and Paroles in the state of Connecticut. Mr. Ireland was exonerated in 2009 after spending nearly half his life serving part of a 50-year sentence before DNA evidence proved he was innocent and led a judge to order his immediate release in 2009.

Governor Malloy is quoted as saying, "Ken Ireland is a man of extraordinary character, who endured the unimaginable pain of nearly 20 years of wrongful incarceration and yet is not only without bitterness, but is incredibly thoughtful, insightful and committed to public safety and public service. By long experience, Ken Ireland is intimately familiar with the criminal justice system and knows there are individuals whom society should give another chance, and I believe that he will take very, very seriously the responsibility of making those judgments." Mr. Ireland said he was honored by the trust placed in him by Governor Malloy and looked forward to serving the people of the state of Connecticut.

We at **CURE-NY** praise Governor Malloy for this nomination and hope this will inspire that kind of courage and thinking here in New York State and we intend to present the question of "Why not" here in New York, especially with the number of exonerated individuals of late that have been released from DOCCS.

A hidden death sentence Pope Francis has branded life-long prison terms "a hidden death sentence" in an attack on "penal populism" ...In a wide-ranging speech to a delegation from the International Association of Penal Law, the pontiff said believers should oppose life-long incarceration as strongly as the use of capital punishment. "All Christians and men of good faith are therefore called upon today to fight, not only for the abolition of the death penalty – whether it is legal or illegal and in all its forms – but also to improve the conditions of incarceration to ensure that the human dignity of those deprived of their freedom is respected." "And this, for me, is linked to life sentences.. A sentence of life (without parole) is a hidden death penalty."

Agreement on Public Defense Services In recent years a broad coalition of organizations have waged an aggressive campaign to provide effective New York State public defense services that match the enormous and powerful resources at the disposal of prosecutors. This is about to change, because of a lawsuit filed seven years ago by the **New York Civil Liberties Union** to improve criminal defense services. On Tuesday Oct. 21, 2014 the NYCLU and Governor Andrew Cuomo reached an agreement. The agreement will require the state to ensure in 20 months that defense attorneys appear at poor defendants first court appearances in 57 counties outside of New York City and 10 months later to ensure public caseloads have been reduced to an acceptable level. It also commits New York State to spending \$4 million over the next two years for investigators, experts and training.

*****NEW

Board members

Christopher NG I am extremely pleased to join the Board of CURE-NY, and help raise awareness about these important criminal justice reform issues affecting our society. As an attorney, I began taking on parole appeals following the merger of DOCCS, and quickly became a devoted advocate for parole reform after meeting Cheryl Kates-Benman at a public hearing in Albany, New York. My first exposure to parole came with John Bruetsch, who was repeatedly denied parole based on the seriousness of the crime. Following an administrative appeal, I won an Article 78 for Mr. Bruetsch, granting him a de novo hearing. Despite being inexperienced, the network of colleagues and friends that I met through attending these events gave me confidence to stand up and fight for change in our parole system. I maintain a general law practice in Monticello, New York, and look forward to this opportunity as a member of CURE-NY.

Sherisse Fardan. I am an Upstate NY elementary educator and online doctoral student. My husband, Kamal, and I have been working as advocates and activists in transforming the New York State penal system for the past 3 years. I am excited to be on the board of directors for CURE NY and look forward to joining forces with some of the best and the brightest in this struggle for righting the wrongs of the current New York State prison population. I will be assisting CURE NY with the Social Media and Technology portions of the organization. Very soon, we will be able to engage comments through our FACEBOOK fan page and our Twitter account. I am very excited to be part of this push for utilizing the modern technology available to us in order to be a voice for the voiceless and to interact with as many people for the common cause of justice as possible. It is an honor to be a part of this historical, yet cutting edge, international movement.

Puppies Behind Bars: By Florence Martinez CURE NY Board Member This is a wonderful program started in Fishkill Correctional Facility by Gloria Stoga. The puppies are raised and trained by inmates for a two year period. They have "Graduation Day" whereby the dogs are given to servicemen coming back from overseas who are experiencing PTS. I believe this program not only benefits the servicemen but it is also great for the inmates involved training these dogs. It gives the men the opportunity to be responsible, it boosts their self-esteem to be helping others, gives the inmate the opportunity to express their feelings thru the animals, they learn patience, and it makes the inmate a better person coming back into society when released. This program would be a great asset if incorporated into other facilities thru-out New York State.

Check out the CURE NY web site www.curennyork.wordpress.com

We are sorry, but CURE-NY is³ not able to offer legal advice.

Please fill in and mail this membership application to: CURE-NY, 207 Riverside Ave. Scotia, NY 12302

Your Name _____
Address _____
City, State & Zip Code _____
Phone _____
E-mail _____
Fax _____

Please check type of membership and Annual Dues. Please check when you last gave.

- | | | | |
|--|----------|-------------------------------------|-----------|
| <input type="checkbox"/> Incarcerated person | \$ 2.00 | <input type="checkbox"/> Sustaining | \$ 50.00 |
| <input type="checkbox"/> Basic | \$ 10.00 | <input type="checkbox"/> Life | \$ 100.00 |
| <input type="checkbox"/> Family | \$ 20.00 | <input type="checkbox"/> Benefactor | \$ 500.00 |

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