



MASS PRISON VOICE

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THEY SPEAK FOR THEMSELVES

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JDMC Massachusetts Chapter

Thank God We're Not Like Russia

By Tom McInerney

The case of Drew Petersen in Illinois caught my attention last week. Petersen's was a national story. He'd been married four times. His fourth wife disappeared under suspicious circumstances. There was also controversy over the death of his third wife, which was ruled an accidental drowning. She was found dead in her bathtub. Some relatives of the third wife went to police saying that her death wasn't an accident, that the couple was in the middle of a contentious divorce and they suspected she was murdered.

When the fourth wife disappeared, the pastor of her church told police that the fourth wife went to him shortly before she disappeared because she feared for her life, she allegedly said, because Drew Petersen allegedly confessed to her that he had killed his third wife.

In many other countries, like Russia, for instance, Petersen

would've been picked up and questioned, maybe tortured, until he admitted his guilt for the crimes everyone by now knew that he had committed. But this is America, where citizens have the right to life, liberty and the pursuit of happiness. There is a constitution, one of the most revolutionary documents ever created, where government is FOR the people, BY the people, and OF the people. The Constitution provides rights for those accused of crimes by the government. Furthermore, these rights are protected by the government that is accusing you! This is truly revolutionary! Not like Russia, for example.

Many countries assert that criminals have no rights, but in America, the mere accusation that you committed a criminal act is the very thing that kicks in all of those rights. How can you have the right against self-incrimination if you haven't been accused of anything in which you could incriminate yourself? You can't incriminate yourself if you aren't on trial for a criminal act, can you? Thank God we're not like Russia.

But the good people of Illinois were faced with a dilemma. They couldn't arrest and charge Drew Petersen with anything at all. Although one wife had disappeared and another wife's death was officially ruled an accident, there was no evidence that any crime had been committed even though "everyone knew" that Petersen "must have" murdered both women. So the body of the third wife was exhumed and, sure enough, the second autopsy revealed that she was, in fact, murdered. But by whom? The only



convict Petersen of murder (as "everyone knew" Petersen killed his third wife and probably did away with his fourth wife also, and they couldn't let him "get away" with that) they went to the Illinois legislature and got them to pass an exception to the hearsay law JUST FOR THIS CASE (as reported by ABC news).

So the prosecutors were lauded as heroes and protectors of society when they tried and convicted Drew Petersen for the murder of his third wife by allowing as evidence the testimony of a man who testified that Mrs. Petersen told him that Drew Petersen had told her, etc. That "evidence" is called "gossip" in 49 other states, but it is "evidence" in Illinois.

A dam doesn't suddenly give way and burst. First there is a dampness that nobody notices. Then there is a trickle of water. It may be noticed but thought of as "just a trickle, nothing to be concerned about. Then another trickle, and another, but they are just trickles, after all. "The dam is strong," they say.

The same is true of our Constitutional rights, and that is what's troubling about the Petersen



We are late in getting this edition of MPV out to you, so we are publishing a special double issue which we hope you enjoy. All paid subscriptions will be extended by one issue. Folks Inside will continue to be on our mailing list without interruption. (As usual, IPS will continue to read MPV without actually subscribing!)

case. Rights are always compromised when someone, like Petersen, is "obviously" guilty. But that's what the constitutional rights are for. Those rights are an "inconvenient truth" to zealous prosecutors who "know" a person is guilty. But what is the next step in "knowing"? How long before another notorious case comes along and another "little trickle" of rights is taken away. And how long before the dam breaks. It always starts with "just this case."

But, like I said, we're not like Russia. We have laws that protect the defendant. Right?

The Dregs of Society

by Joe Labriola

For a state so short of funds, it is amazing to me that there can be so many do-nothing captains in one prison at the same time, along with a recent graduation class of future captains who will also one day be sucking off the public milk.

Remember Steve Kennaway, the once head of the guards' union, MCOFU? You probably saw him many times "testifying" before the legislature about how tough guards have it in the system today. Really? When was the last time a prison guard was killed? He once told the legislature and the press that "we walk the toughest beat in town". Really? Ask any high school teacher who walks the toughest beat in town. More teachers are assaulted in one year than any guards are in ten years. Yet teachers get less than half the salary these guards get. The sad part is that the guards don't even have the common decency to wear a ski mask when they pick up their pay checks.

The people in the Department of Corruption that wear suits know how to get the biggest bang in their buck. What they do is sit in the weeds until it's time to get ready for retirement; then they put on guards' uniforms with gold captain bars. Even former superintendents do this because a

captain makes more money on retirement than a prison warden. So, here's Kennaway, now a gold-bar captain at MCI Shirley. Imagine having a legitimate grievance and going to him for resolution with fairness? About a week ago as I was heading to the lie lawbrary, I saw three captains, none of whom I have ever seen before in this joint, pulling guys over to check their ID cards and to reprimand them if they had in any way altered their clothing. You have more than a quarter of a million a year standing there like Taliban warlords doing all they can to provoke and antagonize so that it will make life more difficult for the two women now running this prison. It is a concerted effort to get their own way in all matters, regardless of established rules and regulations. They all stood there "walking the toughest beat in town" as the prisoners passed by.

Today men are given D reports for breaking rules that aren't even rules. They are charged with violating any rule in the DOC, even if the guards cannot cite exactly what rule was broken. Joseph Heller, author of *Catch-22*, would have had a ball with this concept. In fact, they ought to rename that particular rule "Catch-22" for expediency and uncontested, concrete proof that something was broken, even though something wasn't broken.

I believe in insurrection through the written word. I never go to disciplinary boards, because it never has mattered what any of us "had to say for ourselves." Who are any of these drunks and wife-beaters to sit in judgment of me? I have never filed a grievance report either. Go to the head weasel and complain about



what their brother weasel did to me, and expect a positive result?

I once wrote an article entitled "Just Say No" about how to win in the game. The plantation cannot run without the prison slaves. Let the Dregs do all the work, for the outrageous sums they get paid every year. No violence. Just passive resistance. That is what will get us decent food and programs that really mean something toward our release dates. It also might make them begin to treat our visitors with the respect and dignity they deserve. What a concept.



Phone Justice

Michael Gomes

A) Metro PCS offers unlimited talk, text and web for \$40 a month.

B) Net10 Wireless offers unlimited calls, text and internet for \$50 a month.

C) Global Tel Link (GTL) Inmate Phone System offers a 20 minute collect call for \$1.00 connecting fee, plus \$.10 per minute after that for a grand total of \$2.90, not including tax of course!

It doesn't require a high school diploma or GED to realize which of the above is the worst deal. (That would be "C" in case you're still in elementary school) How is it possible with today's technology that a 20 minute collect call by a prisoner needs to cost so much money when a smart phone user is able to make calls, and text messages, and surf the web for a fraction of the price? Well, GTL will have you believe that their complicated set up of monitoring and recording phone calls demands and justifies such a high fee. Yet, they conveniently neglect to inform you that they utilize VOIP (Voice Over Internet Protocol) technology to make these collect calls! I learned this in Mr. Racioppi's computer class. He was one of my college

professors last semester. When my family receives a collect call from me, their caller ID shows the call originating from Dallas, Texas, which is where the GTL call center is located. All prison collect calls handled by GTL throughout the U.S. is routed to Dallas via VOIP and then connected to the destination via VOIP again. VOIP companies such as Magicjack, charge only \$20 for a year's subscription for unlimited phone calls! With these facts in mind, how can anyone not see the injustice and inconvenience those prison phone calls are causing our families?

I am extraordinarily lucky to have a job in prison which pays me \$7.50 per week. Yet, half of that amount goes into a savings account which cannot be accessed until my release. So with the \$3.75 that I am allowed to spend, I am only able to make one phone call per week to my family. You may think 20 minutes per week of phone time is enough, but that's because you are able to live with your wife or girlfriend and children. You see them each day, eat with them, and put them to sleep at night. However, I must arrange time each week when my family are available to accept my call. By the time I finish saying "Hi" and asking how each one of them are doing, the GTL recording comes on to inform me that I have 60 seconds remaining on my phone call. The pain I feel when I have to hurriedly tell my daughter that our phone time is up and I can only talk to her again next week, is hard to bear. She doesn't understand why it's a big deal for daddy to call her especially when she can talk all day on her cell phone without worries. My daughter relies on talking to me. When I was 16 years old, I quit school, I didn't value education. I felt that I had set a bad example because she also quit school at the same age. So, I educated myself further and obtained my GED and took the B.U. (Boston University) entrance exam, passed, was interviewed and accepted. I am

currently a sophomore with a 3.5 GPA. Through phone conversations, I have been able to preach to my daughter the importance of having an education. From taking my advice, she enrolled in Job Corp. and received her GED and her Certified Nursing Assistant license. As I continue to tell her about the importance of a higher education, I lead by example. Collect calls play a big part in being involved in your family's lives, but the basic privilege of making phone calls should not be a burden on them because of the greed of inmate phone companies. (A.K.A. Corporate Moguls) There is no doubt that collect calls can be made cheaper, if only someone will step up to regulate the service. I want to keep in close contact with my children so they won't go down the road I traveled. Hearing their voices and giving them my wisdom is an important way to ensure they remain on the positive path. I hope you will help us – the prisoners – to stay connected with our families by lowering the cost of phone calls.



Darin Bufalino

Recently Federal District Judge Mark Wolf made a ruling in which the court found that a prisoner in the care and custody of the Massachusetts Department of Correction (Mass DOC) is being denied a medical procedure that he and his doctors claim is necessary.

The medical procedure although repulsive to many is, in the opinion of the Mass DOC's own medical

expert, needed for the prisoner.* Judge Wolf ordered the Mass DOC to reverse its position and allow the medical procedure to be performed.

This ruling comes after more than a decade of litigation. Some taxpayers and many politicians are indignant with the court's decision. They are of the opinion that Judge Wolf erred in some judicial way and want the Mass DOC to appeal his decision to a higher court.

Judge Wolf's decision will not be overturned on appeal for the simple reason that the Mass DOC cannot be allowed to deny medical treatment arbitrarily. In the court of law the Mass DOC and its' then commissioner Kathleen Dennehy were found to be deficient. Actually, the court found them to be less than truthful along with too many negative adjectives to list here.

At issue is not this one medical procedure or treatment and the 'flood gates' it may open. The issue is the failure of the Mass DOC to provide medical treatment to a prisoner. The fact that the treatment is gender reassignment is moot.

For all the posturing of the politicians on this issue I would like to pose the following question to them: how many phone calls, letters and emails have you received from prisoners and their families about months' long lack of treatment for a tooth with a cavity that was then extracted instead of filled? A knee in need of orthoscopy or a Lifer deliberately confined to a wheelchair because he needed hip replacement? Hundreds of prisoners denied surgery for an inguinal hernia? Cancer ignored until the tumor broke bones? Denial of care for Hep C and HIV? Thousands of complaints? Tens of thousands in the last decade?

Because some of the public finds the issue at hand offensive, the media is full of pols berating the court's decision. What the taxpayers and politicians should take issue with are the facts revealed in Judge Wolf's courtroom. Taxpayers, politicians and the Mass DOC have a moral and

legal obligation to provide health care, equal to the level found in the community, to all prisoners at all times regardless of race, religion or gender. It is the law and the Mass DOC should no longer be allowed to circumvent it.

MPV note: The DOC subsequently fired the doctor because his opinion was not in line with its own.



“Equalism”, an Introduction...

By Samuel Conti

Equalism is the belief that our Founding Fathers were correct: We are all created equal and are endowed by the Creator with certain inalienable rights.

Equalism is the philosophy that all people have the same value as Human Beings; that every person is precious in the eyes of the aforementioned Creator; that all citizens should be afforded the same privileges, status and equal protection under the law, and that no one should be marginalized, dehumanized or made to suffer, regardless of race, creed, gender, national origin, sexual orientation – or because they have been accused of a crime.

Equalism is the philosophy that individual equal rights and due process take precedence over concerns of the state or the demands of any industrial complex which operates within that state. Equalism is primarily concerned with alleviating human suffering, and asserts that no Human Being has the right to cause any other Human

Being to suffer, especially under the guise of Public Safety.

Equalism prohibits registering Humans, or labeling them as other than Human, for any reason.

Equalism also prohibits torture in any form, imprisonment without proper nutrition or adequate medical care, and any system of incarceration that degrades another Human Being by placing profits before rehabilitation. The prime focus of equalism, therefore, is an unbroken rule of Law, that abides by, and applies the Constitution, equally, to all people; it forbids the arrest and conviction of any person without evidence or eyewitness, and expressly forbids cruel and unusual punishment, including ex post facto restrictions on personal Liberty that curtail an individual’s ability to secure housing or employment.

Equalism relies on the Constitution of the United States to demand that no Human Being is classified, degraded or defined as less human than any other person, regardless of charges pending or sentence served.

Equalism is most concerned with outlawing the cruel and unusual treatment of any person, under the masquerade of Public Safety or State Security.



Your Target, Your Friend

By Timothy J. Muise

The Colt AR-15 has a “peep & post” sighting system which basically means that you have a rear peep hole sight and front flat post sight that you line up on any target you are aiming to shoot. Guards here in the Department of Corruption line this sighting system up on silhouettes of a man, at a fixed distance, and shoot for the “ten ring”, which is a bullseye placed right over the heart of the figure. When did we forget that these McDonald’s burger flippers (that is what they would be if there were no prisons to work in) train to kill us? When did we forget that we are their targets, not their friends? When did it all go wrong?

Each day that I see prisoners talking sports with their captor I turn more sour. Every time I see a prisoner laughing and joking with the man or woman who trains to kill him I see why we are disrespected at every turn. The sad sight of the manifestation of the Stockholm Syndrome makes me want to regurgitate my rock hard soy burger. We used to get real beef before we became friends of our trained killers. We used to get respect before the men lined up at the screws desk to talk about Paul Pierce and David Ortiz. As they oil their rifles and cash their fat checks we are dying in the HSU. As they push rounds down into the clip and trade off work shifts, juveniles are serving life-without-parole sentences. As these turnkeys fire rounds into the ten ring and plan weeks of vacations the parole board tortures old men and forces them to die in one of these gulags. Am I wrong to hate these screws? I think not!

Where I come from if someone is trying to kill you, you make every effort to get to them first. Now I am not a killer, I’m a lover, but there is more than one way to stop an assailant. I will not let them turn me into an animal, to fit the cage they keep me in, but will display to them

the fiber of my being through my proficient use of the pen as a sword.

Not a day passes behind this razor wire where the lay about screws don't do something we can write them up for. The other day the guard on my block was so drunk that he swayed as he walked down the tier. His breath smelled like a homeless wino and his appearance was as disheveled as Tom Hanks stranded on the island with Mr. Wilson. A killing waiting to happen is this man as he could cause a drunken scene his sadistic cohorts will blame on the "unruly cons" and possibly someone could get shot with that coveted AR-15. It is not too much of a stretch. My point is that we have the power to expose their failings, to break away from the sports talking grip of the guards desk and write these layabouts up when they deny us what we have coming. The guards are cowards at heart. That is why they work in a phony profession which keeps men in cages, and we can keep them in check if they know we are going to report their every failure. No more shoddy health care. No more failed parole system. This is the direction we could take if you could pry yourself away from the desk.

The time is now to get what we got coming – real rehabilitation and humane treatment. We need to be allowed to build proper foundations so that we have a future. We need to ensure that those of us who may never be released will be able to spend their aging end of life days free of abuse and torture. We must demand a parole system which believes in redemption. Is it too much to ask that we be afforded basic dignities? Again, I think not. We can take the AR-15's out of their hands if we demand what we have coming. If we back away from the desk and drop the cop!

I am **not** your friend, and I will not be your target, Mr. Screw. It is time to send you back to McDonalds and claim what is mine by birthright. FREEDOM! I will not talk sports

while my brothers die. I will not stand by while you torture an old man. I will run your failure up the flag pole! Hand over heart, over that "ten ring", I will salute that flag. I will sharpen the sword with the ink of your failures. The evil jailer has no power over the unity of the oppressed prisoner. Let's put the beef back in our symbolic burgers. It is truly time to speak truth to power!

*"Who shall stand guard to
the guards themselves?"
Chazal*

This is a Prison
Joe Labriola

Shirley Medium is a guards' prison. It has always been so, in its almost 20 year existence. No matter the title at the top of the prison hierarchy page or the commissioner "downtown", the guards are definitely in charge of this asylum. This is partially why guards with heinous records of abuse end up here. They are told by other guards it's the place to be because in Shirley, they rule. Past superintendents have been badgered into submission to their wills despite the superintendent's best efforts to make any sort of positive changes in this prison without hope.

This is a prison of successful suicides and suicide attempts.

This is a prison where every convict in the state fights hard not to be sent.

This is a prison where a man stubs his toe and the place is then put in immediate lockdown and all activities are suspended until the stubbed toe can be "investigated," "transported," and "treated." Guards order everyone back to their "rooms" (some of us still call them cells) until the all-clear is sent out by the winged manager.

This is a prison where martinet-type guards are sent to patrol

up and down the aisles to humiliate men in front of their families over the most trivial things.

This is a prison full of old men in wheelchairs going outside in freezing rain three or six times a day for meals and meds. And sometimes they need to go to programs, limited as they are here.

This is a prison where we all come to die physically and emotionally. The so-called "hospital" is packed with dying men. I have seen several old friends over the past few years come in from other prisons to die in bubble-cells locked away from all of us. Today, no one from population is allowed to go back to the bubble-cells to visit with anyone because the guards and medical staff were seen being negligent and abusive to the dying. Their responses were not to correct the negligence or abuse, but to stop any of us from seeing it. Every friend I have watched die has told me the same thing. They all wished they had died where they were. Men in other prisons are sick but refusing to go to the "hospital" to report it, because they have heard about this joint.

This is a prison where the only psychiatrist we have consults regularly with the IPS (prison security) to determine if it's okay to give out certain medications to her patients. If the man had a positive drug urine 30 years ago he is then denied necessary medications today. If the IPS even suspected that a man is cheating his meds or selling them to others, they then tell the doctor to discontinue those meds, even though the man was never given a disciplinary report for abusing anything. The same thing applies to the one medical doctor we have here.

Now, to be fair, we have a new administration at the top. Two women have come aboard, and they both seem like they want to make those positive changes I alluded to earlier. However, they must be circumspect on how they proceed, or like our former commissioner, Kathleen Dennehy, they too will be intimidated into surrendering to the evil machinations of the guards. Remember when Kathleen Dennehy released a video of guards viciously beating a prisoner already on the ground with his hands cuffed behind his back? In retaliation, they took shifts and sat outside her home in a car with a gigantic inflatable rat on the roof and followed her everywhere she went with her family. They slashed her new tires for good measure.

Some positive changes have been initiated with this new administration. They are fighting stronger headwinds than they may have anticipated. They are going to need to show strong and bold leadership and not allow themselves to be intimidated by bullies.

Let's hope the inflatable rat has a hole in its head.



“From Within a Hostile Land”

In the Name of God...

Halfway around the planet from the holy desert sands,
 Upon which God’s final Prophet built with his hands,
 A refuge for the believers, a Madinah so grand,
 I grant you these words from within a hostile land,
 To get you to understand that it was planned,
 To imprison a small band,
 Of young men upon the Truth who found their understanding outlawed and banned,
 Remanded to the custody of injustice’s American brand,
 Branded for life because of a way of life passed down from Negroes of sand,
 Slave masters and house Negroes conspiring to stop a force unstoppable,
 Inhospitable to the proposals of RAND,
 I am hostile,
 To any who would revile,
 The Truth even if they smile,
 In my face all the while,
 Yes, I live my life by the Book,
 So, don’t give me that look,
 You crooks,
 It is you who took,
 From humanity its freedom to let its soul fly,
 To its sole Creator,
 In Whose eyes this capitalistic, materialistic prison of a world isn’t worth the wing of a fly,
 So, we wait in this prison like knights without horses,
 Weeping on the nights that we recite His verses,
 Or hear it,
 Serious and bearded,
 No one had to force us,
 We just read ancient texts and decided to join forces,
 With the Prophet and his Companions,
 To accompany their fight,
 To become companions of the Right,
 Right to Heaven we hope to go and avoid Hellfire’s fright,
 To Hell with the enemies who frighten us with shackles and chains,
 Who go to great pains to keep us in pain,

All in vain,
 Because our veins flow with blood,
 That is worth less to us than the Pleasure of the Lord who created them from mud,
 Their tears flow: “Why? Why won’t he submit to our manmade gods?” they furiously ask,
 As I throw mud in their faces, lean back, and laugh...

By: Tariq Mehanna
 Tuesday, 5th of Ramadan 1433/ 24th of July 2012



به یاد تمام زندانیان سیاسی

MEMORANDUM OF LAW

By: Richard E. Valliere
 July 4, 2012

On June 25, 2012, the Supreme Court of the United States handed down its decision in MILLER v. ALABAMA. The court held, juveniles who were convicted of murder in the first degree and were sentenced to life without parole that were under the age of 18 years old at the time of the crime was unconstitutional and in violation of the 8th Amendment of the United States Constitution.

That decision effects approximately 60 first degree juvenile cases in Massachusetts. All of which have been sentenced to life without parole, which is the only punishment for anyone convicted of first degree murder, M.G.L. c. 265 s. 1.

The Commonwealth was well aware of MILLER and other juvenile cases that were before the 2012 Supreme Court of the United States that would be addressing the question of life without parole for juveniles convicted of murder.

Knowing fully that the only punishment for a first degree murder conviction for anyone is life without parole. M.G.L. c. 265, s 2. The statute does not allow for any other punishment.

Thus, the Commonwealth had a duty to file legislation declaring it to be an emergency law, with a preamble defining its purpose. In this case, its duty would have been to file a general savings clause to M.G.L. c. 265, s. 2., in the event the Supreme Court of the United States or Massachusetts Supreme Judicial Court declares that a life sentence without parole is unconstitutional. Then the following sentence will be imposed; a minimum to a maximum of years.

As far back as 1858, the Supreme Judicial Court of Massachusetts, put both the Executive and Legislative branches on notice that the murder statute did not have a savings clause. *Commonwealth v. Gardner*, 77 Mass. (11 Gray) 438, 442, (1858). Here it is 154 years later and the Murder statute M.G.L. c. 265, s 2, still does not have a savings clause.

WHAT SENTENCE CAN NOW BE IMPOSED?

Because there is only one punishment for first degree murder under M.G.L. c. 265, s.2, and there is no savings clause to provide for this situation, the court has only one legal option left. The defendants are entitled to be discharged. As held in *Gallinaro v. Commonwealth*, 362 Mass. 728, 735 (1973) "If, in the circumstances the law of this Commonwealth and Federal constitution requirements make the carrying out of the prison sentence improper ... , and if there is no method by which the petitioners may

now properly be resentenced, the petitioners are entitled to be discharged."

Indeed, the MILLER decision only vacated the sentence and left standing the conviction. Regardless of what other states may do in dealing with this issue, the court has to do a statutory construction on M.G.L. c. 265, s. 2. It is the function of the court to construe a statute as written and an event or contingency for which no provision is made does not justify judicial legislation.

Jinwala v. Bizzaro, 14 Mass.App.Ct. 1, 3 (1986). Plain omission in the law to provide for exigencies which may arise cannot be supplied by those charged with administering the law or by the court in construing and interpreting the statute. *Thacher v. Secretary of the Commonwealth*, 250 Mass. 190-191 (1924). If the words in the statute are explicit, there is no room for speculation. *Opinion of Justices*, 361 Mass. 897 (1972).

When all is said and done, the statute M.G.L. c. 265, s. 2, has only one punishment for first degree murder. A sentence which is now illegal as it applies to all the juvenile cases.



WHY THE COURT CANNOT IMPOSE A SECOND DEGREE SENTENCE

The short answer is, if the court imposed a second degree life sentence it would be tantamount to a commutation. Once again, the language of M.G.L. c. 265, s 2 is very explicit on this point of law:

"no person shall be eligible for parole under Section one hundred and thirty-three A of the chapter one hundred and twenty-seven while serving life for murder in the first

degree, but if his sentence is commuted there-from by the governor and council under the provisions of section one hundred and fifty-two of said chapter he shall be subject to the provisions of law governing parole for persons sentenced for lesser offenses."

Likewise, if the court were to vacate the conviction of first degree murder for the sole purpose of imposing a second degree life sentence – this too would also be an order of commutation. A clear violation of Article 30 separation of powers. A power which cannot legislatively be bestowed upon the Judiciary. The general court has not a right in any case to commute the punishment fixed by law after sentence has been given. *Opinion of the Justices*, 14 Mass. 472 (1787) in which the court held: "Our opinion is founded upon the eighth article of the first section of the second chapter of the frame of government, which article lodges the power of pardoning offenses ... solely in the Governor, by and with the advice of Council; to which the right of commuting punishment, if by such be meant a right of pardoning upon condition of the convict's voluntarily submitting to a lesser punishment, must be a necessary incident."

Therefore, a second degree life sentence is not an option. With no other lawful sentence available the only ... which these defendants are entitled to is discharge from custody.

STATUTORY CONSTRUCTION ON M.G.L. c. 265 s. 2.

The fact that since 1972, with the decision from the Supreme Court of the United States in *Furman v. Georgia*, 408 U.S. 238 (1972) in which *Furman* first announced the principle that States may not permit sentencers to exercise unguided discretion in imposing the death penalty, thereby eliminating the offending state and federal "statutes and codes" as being unconstitutional. Many states like Georgia, North Carolina, and Louisiana passed new

legislation to correct their unconstitutional statutes and codes.

However, Massachusetts did not pass any legislation on the claimed unconstitutional statute M.G.L. 265 s 2 until 1997. The Massachusetts Supreme Judicial Court did not do a review of the effect of Furman on M.G.L. c. 265 s 2. Instead, they chose to legislate from the bench by declaring what was once a discretionary life sentence in which only the jury had the sole right to recommend under the provisions of M.G.L. c 265 s 2, was now a mandatory life sentence without parole. This order by the 1972 Massachusetts Supreme Judicial Court was a void order as it was an ex post facto law. Just because the death sentence could not be imposed on the Massachusetts death row inmates the power of the jury was not conferred upon the court. The court also knew that while the legislators could have passed a new c. 265 s. 2 statute dealing with the punishment for first degree murder, the court was well aware that such a law would be an ex post facto law and could not be applied to the then death row inmates.

A retroactive legislative change from discretionary to mandatory death sentence would be an unconstitutional ex post facto law. United States Constitution Art. 1 s 10. Declaration of Rights of the Massachusetts Constitution Art. 24:An unforeseeable judicial decision having the same effect is equally barred by the due process clause. *Bouie v. Columbia*, 378 U.S. 347, 363-354 (1964). Quoting from *Commonwealth v. Davis*, 380 Mass. 1 (1979) at footnote #19. The same principle applies to the court's changing a discretionary life sentence in effect before Furman and then changing it to a mandatory life sentence after the Furman decision. With no savings or severalty clause to give them authority to do so.

No matter how practical a statute or order by the court appears to be, and no matter how long it has been

on the books or cited as a legal authority, once its infirmity becomes apparent, the court has a duty to correct the error and uphold the higher law of the constitution. It is quite clear, that Art. 30 absolutely forbids the Judiciary from granting commutations. This is precisely what the court did when dealing with the 25 death row inmates on appeal.

Now, no doubt the court will try to do the same, with the 60 cases that will be coming before them.

It is certainly unfortunate that this fundamental flaw has gone unnoticed for so long; however, the court must not further compound their error by turning a blind eye to the statute in question. They must do a full history and statutory construction review of M.G.L. c 265, s 2. Only then will justice be served.

The Other Death Sentence

James Ridgeway
Sep. 25, 2012

More than 100,000 Americans are destined to spend their final years in prison. Can we afford it?



A Kentucky inmate is admitted to the hospital. ©Tim Gruber

William "Lefty" Gilday had been in prison 40 years when the dementia began to set in. At 82, he was already suffering from advanced Parkinson's disease and a host of other ailments, and his friends at MCI Shirley, a medium security prison in Massachusetts, tried to take care of him as best they could. Most of them were aging lifers like Lefty, facing the

prospect of one day dying behind bars themselves, so they formed an ad hoc hospice team in their crowded ward. They bought special food from the commissary, heated it in an ancient microwave, and fed it to their friend. They helped him to the toilet and cleaned him up. Joe Labriola, 64, tried to see that Lefty got a little sunshine every day, wheeling his chair out into the yard and sitting with his arm around him to keep him from falling out.

But Lefty, who was serving life without parole for killing a police officer during a failed bank heist in 1970, slipped ever deeper into dementia. One day he threw an empty milk carton at a guard and was placed in a "medical bubble," a kind of solitary confinement unit with a glass window that enables health care staffers to keep an eye on the prisoner. His friends were denied entrance, but Joe managed to slip in one day. He recalls an overpowering stench of piss and shit and a stack of unopened food containers—Lefty explained that he couldn't open the tabs. Joe also noticed that the nurses in the adjoining observation room had blocked the glass with manila folders so they wouldn't have to look at the old man.

Lefty had been popular among the prisoners, though. A minor-league ballplayer turned 1960s radical—his southpaw, not his politics, earned him the nickname—he was the subject of one of the most infamous manhunts in Massachusetts history.

He had already been in and out of prison several times on robbery offenses when he fell in with a group of Brandeis University students who decided that stealing guns and money could help them foment a black revolution. They held up a bank in 1970, and when Boston police responded, guns drawn, a patrolman named Walter Schroeder was shot

dead. Lefty claimed that he never meant to shoot the guy—that it was a warning round that ricocheted—but the jury didn't buy it, and he was convicted of first-degree murder and sentenced to death. (The students got no more than seven years.)

In 1972, after the Supreme Court briefly banned capital punishment, Lefty became a lifer. Over time, he also became a jailhouse lawyer—a inmate paralegal who puts together legal cases for fellow prisoners—settling disputes and eventually gaining a rep as something of an elder statesman. When Lefty died last September, his friends were denied permission to hold a memorial service in the prison chapel, so they ended up holding it in a classroom. The service culminated in some 80 men sailing paper planes into the air as a tribute. "We loved the old man," Joe Labriola wrote me in a letter.

From 1995 to 2010, as the US prison population grew 42 percent, the number of inmates over 55 grew at nearly seven times that rate.

Lefty Gilday was no ordinary inmate, but in one regard he typified a growing segment of America's inmate population—geriatric prisoners. The United States leads the world in incarceration, with more than 2.2 million people in its prisons and jails, and the graying of this population is shaping up to be a crisis with moral, practical, and economic implications for cash-strapped governments. In recent years, a growing number of advocates—and even a handful of corrections officials and politicians—have dared to suggest that we consider setting some of these old-timers free.

As of 2010, state and federal prisons housed more than 26,000 inmates 65 and older and nearly five times that number 55 and up, according to a recent Human Rights Watch [4] report. (Both numbers are significant, since long-term incarceration is said to add 10 years to a person's physical age; in prison, 55 is

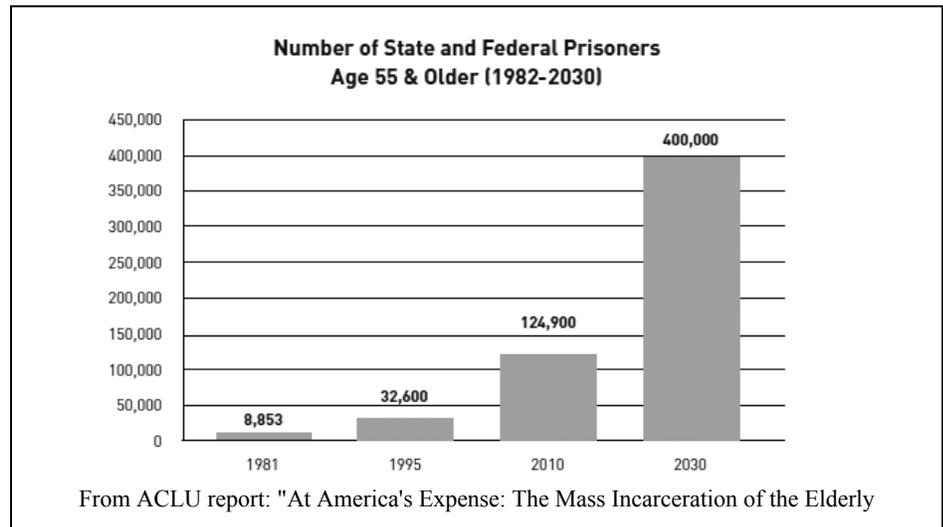
old.) From 1995 to 2010, as America's prison population grew 42 percent, the number of inmates over 55 grew at nearly seven times that rate. Today, roughly 1 in 12 state and federal prison inmates is 55 or older.

The trend is worsening. A new report from the American Civil Liberties Union [5] estimates that, by 2030, the over-55 group will number more than 400,000—about a third of the overall prison population. (See chart.) "It's huge," says Bob Hood, the former warden of the mammoth federal correctional complex in Florence, Colorado. "We're behind the eight-ball on this."

The boom in geriatric prisoners is the inevitable result of legislation from the tough-on-crime 1980s and 1990s, which extended sentences and slashed

such as drug possession and property crimes.

Keeping thousands of old men locked away might make sense to die-hards seeking maximum retribution or politicians seeking political cover, but it has little effect on public safety. By age 50, people [7] are far less likely to commit serious crimes. "Arrest rates drop to 2 percent," explains Hood, the retired federal warden. "They are almost nil at the age of 65." The arrest rate for 16-to-19-year-olds, by contrast, runs around 12 percent. Once released, therefore, the vast majority of the older prisoners never return. Data from New York state [8], for example, tracked 469 inmates who were originally sentenced for violent crimes and were later released as senior citizens—over a 13-year period,

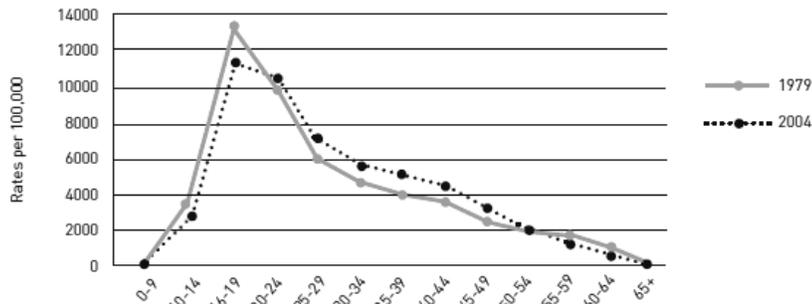


parole opportunities, both dramatically so. According to a June report by the Pew Center on the States [6], drug offenders released in 2009 had spent 36 percent longer behind bars, on average, than those released in 1990. One in ten state prisoners nowadays is a lifer, and about the same proportion of federal prisoners over 50 are serving 30 to life. In short, more than 100,000 prisoners are currently destined to die in prison, and far more will remain there well into their 60s and 70s. Many of these men—as most of them are men—were never violent criminals, even in their youth. In Texas, for example, 65 percent of the older prisoners are in for nonviolent acts

just 8 of those former inmates went back to prison, and only 1 went back for a violent offense. "The mass incarceration of the elderly is an example of our criminal justice system at its most heartless and its most irrational," says David Fathi, director of the ACLU's National Prison Project. "Most such prisoners are long past their crime-prone years and pose little to no public safety risk."

Beyond any questions of efficacy or mercy lies the looming issue of the price tag. According to the ACLU, caring for aging prisoners costs American taxpayers some \$16 billion annually. We shell out roughly \$68,000 a year for each inmate over

National Arrest Rates by Age (1979 & 2004)



From ACLU report: "At America's Expense: The Mass Incarceration of the Elderly"

50, twice what it costs to keep a younger person locked up. And the older the inmate, the greater the cost. "I've had inmates where a total cost of \$100,000 a year is on the low side," Hood says.

Even when you factor in post-incarceration expenses—for parole, housing, and public benefits such as health care—the ACLU projects that taxpayers save \$66,000 a year, on average, for each inmate over 50 our prisons set free. "States are confronting the complex, expensive repercussions of their sentencing practices," notes a 2010 report from the Vera Institute for Justice [9].

It's not difficult to see why it costs so much. "The medical conditions that present themselves to long-term elderly inmates run anywhere from dialysis to cardiac treatment to dementia," says Carl ToersBijns, who worked his way up from guard to deputy warden during his 30 years in the New Mexico and Arizona prison systems. "It is staff intensive," he says. And the number of elderly inmates "is outgrowing the ability of corrections officers to handle and manage them—they're not medically trained."

Nor are prison facilities designed for people with mobility problems. Their assisted-living and hospice units are often chock full, Hood says, leaving the unlucky elders stuck in the general population without the services they need. Unless states start releasing them, Hood says, we will need to "retrofit every prison in America to put assisted living-units in

it, wheelchair accessibility, handicapped toilets, grab bars—the whole nine yards."

In recent months, I have been corresponding with several older men in Massachusetts state prisons, and have visited one of them in person. They are all lifers with murder convictions, which makes them atypical even among the long-termers. These men will never be paroled, and they are unlikely to qualify for early release no matter how rehabilitated they might be or how aged and decrepit they become. They have accepted this, and have generally tried to make something of their lives in prison—serving as jailhouse lawyers, organizing against abusive conditions, and helping their friends survive.

I am 75, so we share a camaraderie of sorts as we compare notes on our aches and pains and medication regimens. They know I understand what it's like to be getting old and facing illness and death. They also know I have no idea what it's like to deal with these things behind bars. Their letters tell of lives filled with daily indignities—trying to heave an aging body into the top bunk, struggling to move fast enough to get a food tray filled or get a book at the library, fighting off younger troublemakers. But worst of all is the pervasive nothingness and isolation.

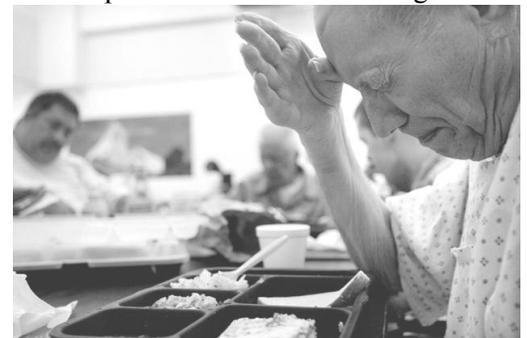
The few available activities are open only to people who can walk long hallways or climb

stairs. For some old-timers, doing time simply means awaiting death.

Prison officials tend to discourage close friendships, and they dislike anything that smacks of organizing, which is considered a security threat. So they routinely transfer inmates between prisons and deny them the right to communicate with friends in other facilities. The activities available—which are few, since lawmakers wiped out most rehabilitative programming during the 1980s and 1990s—are accessible only to inmates who can walk long prison hallways or climb stairs. For some old-timers, a cell is their entire world; doing time simply means awaiting death.

Joe Labriola is a former Marine combat hero. Now 66, he joined the Marines at 17 and served two tours in Vietnam, receiving a Purple Heart and Bronze Star with Combat "V" for valor. After returning home, he was convicted of killing a drug dealer who was an FBI informant and got life without parole. So far he has served 38 years—18 in solitary.

Labriola has chronic breathing problems that he attributes to Agent Orange exposure. He says it's hard for him walk more than 10 steps without help from an oxygen machine, so he's in a wheelchair a lot of the time. At least 75 prisons in 40 states now have hospices, but you won't find any in Massachusetts. At MCI Shirley, Labriola lives in a ward called Assisted Daily Living, which he describes in his letters as a clutch of hospital beds in a corridor. "We live in an 11-man ward with all the beds side by side," he says. "No ventilation or windows that can open. We do have hospital beds and standing wall



Kentucky inmate Charles Webb, 74, in 2008.

©Tim Gruber

lockers, something the general population does not have." Unlike most assisted-living facilities, this setup provides little actual assistance, he says, other than what "the prisoners who clean the floor and bathrooms render us when we ask." Residents get to move around outside the ward for just 10 minutes every hour, which means the person pushing Joe's wheelchair must race from place to place—the prison library, he estimates, is a quarter mile away.

One elderly inmate "was partially paralyzed from a stroke and the batteries in his hearing aid were dead and he never heard the announcement for Count Time," says a fellow prisoner. So the old man got thrown in the hole.

From his window, Labriola has a view of the prison hospital. "I see men coming up for medication and insulin at least three to four times per day," he says. "They come in chairs, Canadian canes, geriatric walkers. In one week alone we had three deaths." The hospital's inpatient facilities consist of a series of five small wards with five beds in each. Men in various stages of bad health or terminal illness lie in bed all day long with nothing to do but watch soap operas. "What they need is mental, spiritual, and human stimulation in the form of a one-to-one care provided by trained prisoners who would be first cleared for drug usage and sex crimes as there are female nurses in the area," Labriola suggests in one of his letters. "There are many men willing to volunteer their time and energies into making this a reality."

Lifer John Feroli told the following story in one of his letters: "A guy in his 70s I knew personally was in the [solitary confinement] unit because he failed to stand for the afternoon count. He was on the third floor of the housing unit, he was partially paralyzed from a stroke and the batteries in his hearing aid were dead and he never heard the announcement for Count Time."

Another convicted murderer, 73-year-old Billy Barnoski, wrote me in April to report that he was in solitary

after a younger cellmate jumped him and beat him up. His friends came to his aid, there was a melee, and four people were thrown in the hole. Barnoski suffers from a heart condition called atrial fibrillation, which is treated with a blood thinner called coumadin. He also has high blood pressure, high cholesterol, shingles, and severe arthritis in his back and neck. He takes 25 pills daily. "There have been many times, so many, that they simply say, 'We haven't got that med today,'" he writes. "Mind you it has been heart meds just last week. Locked in this hole without necessary meds is torture."

Then there's Frank Soffen, also 73. Sentenced to life for second-degree murder, he has spent more than half of his life in prison. Nowadays he is confined to a wheelchair. He has kidney and liver disease and has suffered four heart attacks. He currently stays in the assisted living wing of Massachusetts' Norfolk prison. And because of his failing health and his clean record during 40 years behind bars—which included rescuing a guard being threatened by other prisoners—he has been held up as a candidate [11] for compassionate release.

Frank Soffen, 73, is bedridden, confined to a medical observation bubble, clad in adult diapers, and unable to wash.

Soffen is physically incapable of committing a violent crime. He cannot even hold a pen, in fact, so I had to rely on the other prisoners' accounts of his situation. They told me he has already participated in prerelease and furlough programs, and has a supportive family and a place to live with his son. One member of the state parole board recommended his release. But the board has denied him parole twice—in 2006 and again in January 2011. He won't be eligible for review for another five years—if he lives that long. These days he's warehoused in a medical observation bubble, bedridden, clad in adult diapers, unable to wash.

Gordon Haas, 68, is in better health, but he too has been in prison

the better part of four decades, ever since his 1975 conviction for murdering his wife and children. While inside, Haas earned a master's degree from Boston University, but such opportunities are exceedingly rare nowadays. Ever since Willie Horton [12]—the furloughed Massachusetts prisoner who went AWOL and committed murder only to become the bane of Michael Dukakis' 1988 failed presidential run—Haas has witnessed the rollback of parole and the end of programs that once allowed inmates to work outside prison gates and further themselves on the inside.

This past May, I visited Haas at Norfolk Prison, about 45 minutes outside Boston. Norfolk was designed for 750 men and holds 1,500. Built in during the 1920s to mimic a college campus, its buildings look more like dormitories than cell blocks, if you ignore the razor wire.

Haas tells me his advocacy for prison reform has earned him the scrutiny of the prison's Inner Perimeter Security force, an internal police unit. They read his letters, he says, and monitor his phone calls. So rather than make a formal media request, I simply go in as a regular visitor.

"We are a resource for others," one aging inmate insists, but "the DOC does not sanction prisoners helping other prisoners."

Once I pass through the metal detectors—presenting ID, taking off my shoes and showing the bottoms of my feet, the underside of my collar, and the inside of my waistband—I proceed across the campus into a large visiting room filled with rows of chairs. Prisoners and visitors may sit next to, but not opposite, one another. They must keep their feet flat on the floor at all times and their backs against the chair backs. Guards posted at stations at either end of the room roam about and escort visitors to the toilet. Prisoners are strip searched before they enter and after they leave.

Haas enters wearing a short-sleeve button down, pressed blue jeans, and thick glasses. With his neatly combed gray hair, he reminds me of an IBM

executive on a visit to the factory floor. He is affable, and a keen storyteller. In addition to leading the Lifers Group, a collection of men unlikely to ever get out, Haas is chairman of the Store & Finance Committee of the Norfolk Inmate Council. He takes a big interest in Project Youth, which teaches younger prisoners to speak to students and youth groups about what led them to prison.

As of June, according to its own figures, the Massachusetts Department of Correction had 11,679 inmates. About 19 percent of them were 50 or older and 6 percent were at least 60. Last year, Haas used the DOC's figures to produce his own report [13], which notes that the 60-plus contingent is the fastest-growing demographic in the state's prisons.

Haas says he has been urging the state to adopt a hospice program for more than 15 years. "Our contention is that since lifers will probably be in need of such care, we are a resource for others now," he says. But "the DOC does not sanction prisoners helping other prisoners. There is one outlet, and that is prisoners can volunteer to take those who can go

estimated 1,270 prisoners with medical or mental health issues that would preclude them being housed in "regular" prisons. "We don't have a position on compassionate, geriatric, or any other type of release," a DOC spokeswoman told me via email. "That's up to the Legislature." And while Massachusetts legislators have introduced a bill "establishing criteria for the compassionate release of terminally ill inmates," it has yet to make it [15] past the "study" stage.

By 2010, according to the Vera Institute, 15 states and DC had approved some form of "geriatric release," while others had medical- or compassionate-release programs that could potentially apply to frail, aging prisoners. But "the jurisdictions are rarely using these provisions," its report notes, thanks to fearful politicians, a less-than-sympathetic public, narrow eligibility criteria, and red tape that discourages inmates from applying and can draw out the process indefinitely. Nobody has aggregated the state-to-state data, but it appears that the number of prisoners released under these programs totals no more than a few hundred.

"Sixteen billion [dollars] a year. Think about that number. It has to wake up some people."

Jack Donson, who spent 23 years as a case manager for the federal Bureau of Prisons, points to the shortcomings of the Elderly Offender Pilot Program [16], part

of 2008 federal legislation called the Second Chance Act. The law made the criteria for early release so strict, and the paperwork so extensive, Donson says, that it applied to only a few dozen inmates nationally. "I actually referred the first offender in the country" to the program, he notes on his website. "The bureaucrats deemed

this offender dangerous to the community," because of a record of violence 30 years earlier, "yet he had been incarcerated in a camp setting (without a fence), was a model inmate with an outstanding work ethic who even participated in unescorted medical furloughs in the community."

Little has changed in the interim. But Hood believes America is approaching a politically expedient moment. "You spend \$68,000 to watch an inmate who is truly hospital-bound? I think most people would get that. They would understand that if there's another way to do it—let's do it outside the prison," he says. "Sixteen billion a year. Think about that number. It has to wake up some people."

"States just can't support the burden anymore," agrees former state warden Carl ToersBijns. "The only solution will be to release them or to ignore them." If we choose the latter, he cautions, prison death rates will skyrocket.

Of course, ignoring elderly prisoners *after* release could be just as devastating. The ACLU's Fathi emphasizes that institutionalized old folks will require plenty of help transitioning back into the community and getting the services they need. "For many elderly prisoners," he says, "particularly those with serious medical needs, simply pushing them out the prison door will be tantamount to a death sentence."

James Ridgeway wrote this article with support from a MetLife Foundation [1] Journalists in Aging Fellowship, a collaboration of New America Media [2] and the Gerontological Society of America [3]. To access all footnotes please see Mother Jones Sept./Oct. issue or on line at www.motherjones.com

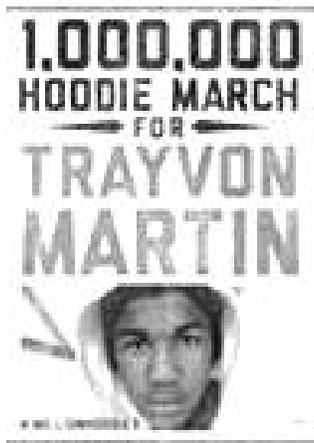


Lunch at Kentucky State Reformatory, 2008. ©Tim Gruber

outside out for programs and fresh air, even those in wheelchairs. That is good, but it is all there is."

The DOC confirms that it has neither prison hospices nor immediate plans to build any. By 2020, according to the state's DOC Master Plan [14], Massachusetts will need three "new specialized facilities" to house an





Reduce Tension with Progressive Muscle Relaxation

Note: We know you cannot pretend you are not in the Belly of the Beast. Yet this practice may be a way to get a few moments of clarity and relaxation otherwise denied.

Progressive Muscle Relaxation is a great technique for reducing overall body tension. As you practice tensing and relaxing all the muscle groups in your body, you can move to a shortened procedure, Deep Muscle Relaxation where you rapidly relax your whole body. As you reduce the tension you carry in your body, your whole being will feel less stress and you will enjoy increased physical and emotional health. Here's how to get started:

Difficulty: Easy

Time Required: 5 Minutes

Here's How:

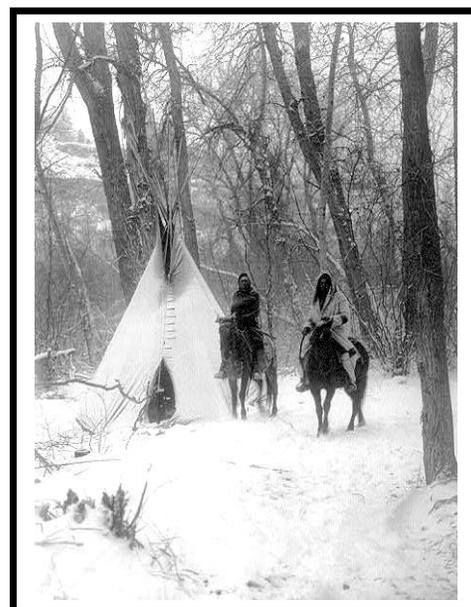
1. After finding a quiet place and several free minutes to practice progressive muscle relaxation, sit or lie down and make yourself comfortable.
2. Begin by tensing all the muscles in your face. Make a tight grimace, close your eyes as tightly as possible, clench your teeth, even move your ears up if you can. Hold this for the count of eight as you inhale.
3. Now exhale and relax completely. Let your face go completely lax, as though you were sleeping. Feel the tension seep from your facial muscles, and enjoy the feeling.
4. Next, completely tense your neck and shoulders, again inhaling and

counting to eight. Then exhale and relax.

5. Continue down your body, repeating the procedure with the following muscle groups:
 - o chest
 - o abdomen
 - o entire right arm
 - o right forearm and hand (making a fist)
 - o right hand
 - o entire left arm
 - o left forearm and hand (again, making a fist)
 - o left hand
 - o buttocks
 - o entire right leg
 - o lower right leg and foot
 - o right foot
 - o entire left leg
 - o lower left leg and foot
 - o left foot
6. for the shortened version, which includes just four main muscle groups:
 - o face
 - o neck, shoulders and arms
 - o abdomen and chest
 - o buttocks, legs and feet



Quickly focusing on each group one after the other, with practice you can relax your body like 'liquid relaxation' poured on your head and it flowed down and completely covered you. You can use progressive muscle relaxation to quickly de-stress any time.

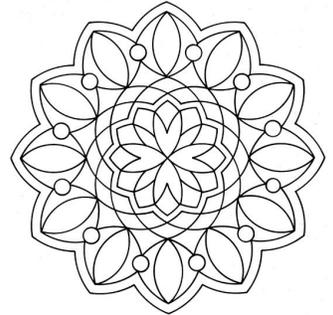


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| breakfast | fort | landscape | nominate | vacation |
| card | fumble | lecherous | Pacific | vein |
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From Sue's Desk
*Wishing you and your loved ones
a peaceful holiday season
and a prison free New Year!*



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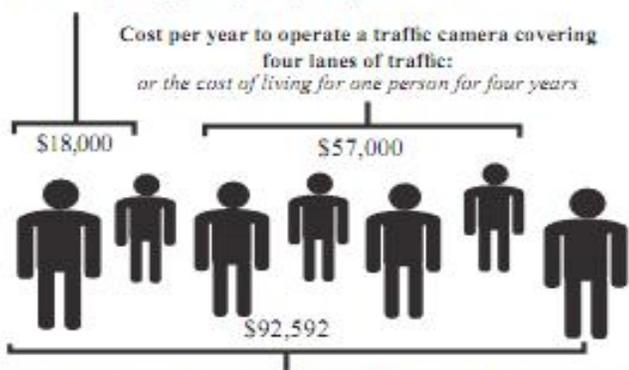
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SURVEILLANCE VS. SOCIAL SECURITY



As the costs of government surveillance rise, some politicians and interest groups are making moves to cut basic services. Below, the price tags of surveillance in America—and how many people these funds could help support, based on the average unemployment benefit pay out of \$1,200 per month.

Cost to install a camera surveillance system on a city bus:
or the cost of living for one person for one year and three months



Typical average annual salary of a Drug Enforcement Agency Special Agent with four years' experience:
or the cost of living for one person for six and a half years

Since 2001, the amount provided to the states of New Jersey and New York through the federal High Intensity Drug Trafficking Area program that spied on Muslim and other groups, including Critical Resistance:

\$135 million
or the cost of living for one year for 9,375 people



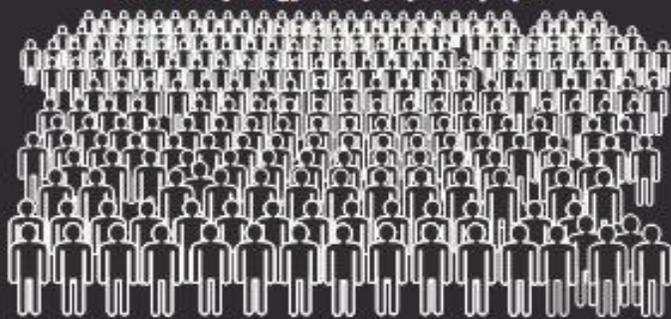
\$632 Police department costs to track outgoing numbers dialed by one cell phone for one year:
or the cost of living for one person for 2 weeks



Amount the Department of Homeland Security paid defense contractor General Dynamics to monitor the internet for criticisms of the Department, in 2012:

\$11.4 million

or the cost of living for one year for 792 people



Cost to operate one U.S. customs and border control unmanned air drone, per year:

\$18.5 million

or the cost of living for one year for 1,285 people

Overtime paid to Border Patrol agents since 2006:

\$1.4 billion

or the cost of living for one year for 97,222 people



*SEE ABOLITIONISTPAPER.WORDPRESS.COM FOR SURVEILLANCE COSTSOURCES.

This infographic originally appeared in issue 18 of The Abolitionist, the newspaper of the group Critical Resistance. See <http://abolitionistpaper.wordpress.com/> for more information. Graphic Design by Oliver Spires. Reprinted with permission

Yes, folks, if your loved one 'inside' is suffering - please inform the MA DOC right away and...

...we will make certain they suffer more, are thrown in the Hole, investigated, sent to a 'mental health unit' (thanks to Prisoner Legal Services/Disability Law Center/Department of Correction collusion), lugged or forcibly 'treated.'

Yup, since the DOC intentionally inflicts these harms they are in the best position to 'help' prisoners to recover from horrific institutional abuse, medical neglect, guard brutality, poor nutrition and dirty air and dirty water. And they'll add the cost to your phone call!

DON'T ALLOW THE DOC TO MAKE YOU A PARTY TO YOUR LOVED ONE'S INCREASED SUFFERING!

Yet Another Punitive Restriction: DOC MEMO

To: All Inmates

From Luis S. Spencer, Commissioner

Re: Telephone System Recorded Message Change

Date: September 25, 2012

In an effort to keep the public informed of important changes occurring within the Department of Correction, please be aware that the recorded telephone announcement that repeats during all inmate telephone communications has been modified. This modification was made in order to better serve those inmates who may be in need of immediate services. All call recipients will now hear the following recorded message:

You have a call from , (Inmate Name), at the (Institution Name) Correctional Institution. To accept this call press 8 or to deny, hang up. The Department of Correction is committed to maintaining a safe and secure environment. The person with whom you are speaking today may say something that raises concern for their safety or others. This might include statements they are suicidal, have lost hope, are planning to harm someone, or that they are having difficulties coping. If the person you are speaking with says something that causes concern about their well being (sic) or other, please notify the Departmental Duty Station at (Duty Station Telephone Number) immediately. Thank you.

We appreciate your attention to this matter and ask that you pass this information along to any family member or friend that you have telephone communications with.

CC: Deputy Commissioners
Assistant Deputy Commissioners
Superintendents
File"

<p>Subscription form to share with family and friends. Free to those on the inside. Sliding scale \$4.- 10. for 4 issues. Send this form and your check or money order (payable to Susan Mortimer) to:</p> <p>Name _____</p> <p>Address _____</p> <p>City _____ State _____ Zip _____</p> <p>Additional subscriptions: Please send the name and address of each additional recipient. Calculate subscription total by your subscription rate times the number of subscriptions. Donations of any amount are welcome. <u>CHANGE OF ADDRESS?</u> Use this form to let us know.</p>	<p>Mass Prison Voice PO Box 441825 Somerville, Ma. 02144</p>
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Massachusetts Department of Public Health Drug-testing Lab:

60,000: drug test samples 'tainted' | 34,000: cases affected | 1,140: currently in PRISON
335: awaiting trial/bail/jail| 144: on parole | 320: juveniles committed to DYS

The Commonwealth's criminal injustice system places the blame on a single DPH staff member. And cries out for more \$\$\$ for steel cages.

How long do we tolerate tough-on-crime demagogues who are don't give a rat's arse if thousands of the poor, Blacks & folks with drug addictions rot in prison on false charges?



Parole Board Report

Luis Perez

The following information is on line and it was mailed to me [the week of Sept. 27th, 2012] for publication. The break down on the Parole decisions is indeed very serious:

PAROLES & DENIALS

87 cases total

- 49 (5) year set backs
- 7 (4) year set backs
- 5 (3) year set backs
- 7 (2) year set backs
- 1 (18) month set back
- 1 continuance to obtain a lawyer.

VOTES

- 8 Split votes
- 79 Unanimous decisions

PAROLES

- 18 Paroles granted by New Parole Board
- 2 Released to the Street
- 1 Passed Away Awaiting Placement in Veterans Program
- 15 Still Waiting to be Released, Due to Stipulations by Parole.

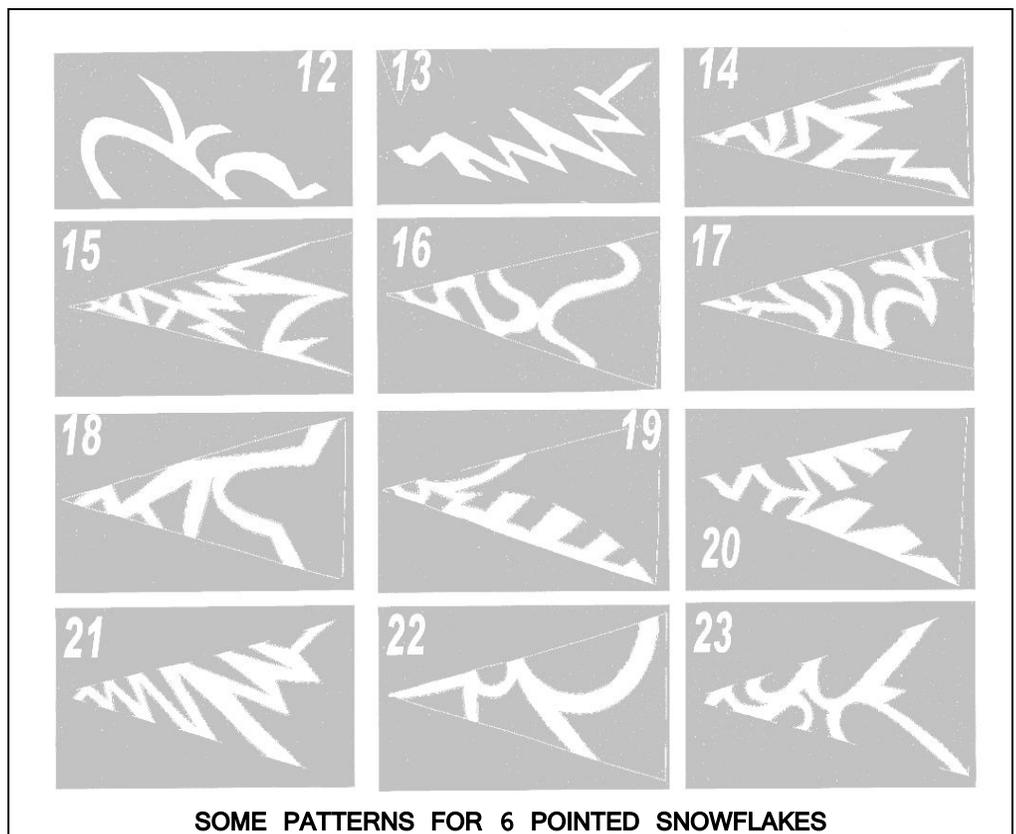
HOW DECISIONS DETERMINED

- 49 Unanimous 5 year set backs
- 27 (5) year setbacks at Initial Hearing (also unanimous).
- 12 (5) year setbacks at Initial Hearing (also unanimous).
- 10 (5) year setbacks after Parole Revocation Hearing (Unanimous).
- 9 Paroles after Revocation Hearing
- 5 Paroles at Initial Hearing
- 5 Paroles at Review Hearing



I was also told that loyal people to prison reform are investigating if the

(4) four District Attorneys who are now Parole Board Members were prosecuting any drug cases and using falsifying certificates from the Laboratory in Chelsea to send people to prison. If this information is true we will have another round of questions, regardless if the District Attorneys were aware or not, because tough on crime policy in Massachusetts should apply equally to everyone in the State. It would seem that it only applies to the have nots. But what happens when there are serious questions about those in charge? It would be nice if the Parole Board reflected less prejudice in those decisions.



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