

# GRATERFRIENDS

A Publication of The Pennsylvania Prison Society

Promoting a humane, just and constructive correctional system and a rational approach to criminal justice since 1787

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## Dying with Dignity: Hospice Volunteer Inmate Program, SCI Graterford

by Ruth Hoskins, Ph.D., H.H.S., LCSW

*Editor's note: Ruth Hoskins is a volunteer with the Hospice Inmate Program and her personal website is [www.relaxationinternational.com](http://www.relaxationinternational.com).*

What will it be like to die? Will I die in pain? Will I die alone? Will there be someone to comfort me and answer my questions? Will I be forgiven? No one wants to die alone, and people are afraid of dying in pain. Generally, what people want at the end of life is to have their pain managed, to know their life had meaning, and to be forgiven for their mistakes. End-of-life issues are complicated, with strong emotions and anxious anticipation about the future and the unknown. Often people want to make amends and unburden their hearts. This is easier to do in a home or medical setting with the support of family and professional hospice staff than it is in prison. When incarcerated, dying with dignity is dependent on whether or not there is a compassionate well-trained group of hospice staff and volunteers in place. In SCI Graterford, there is a Hospice volunteer program, and I have been privileged to be a part of it and provide support services to the Hospice inmate volunteers, men who sit vigil at the bedside of the dying prisoner.

Following an age-old tradition of helping sick and weary travelers, Hospice care at the end of one's life can be traced back to Medieval times. People in search of healing, and perhaps a cure, sought shelter — a safe haven — looking for rest in monasteries and other religious institutions and places that opened their doors to the sick and dying. At SCI Graterford, a carefully screened group of inmates guided by an interdisciplinary team of professionals from medical, psycho-social, and chaplaincy traditions, are trained to sit vigil, a quiet period during the day or night. They provide comfort, support, companionship, and a receptive non-judgmental listening ear to the patient at the end of his life. The inmate volunteer program provides a Hospice end-of-life presence to fellow inmates, men who like themselves are serving time.

(See Hospice, continued on page 17)

## "I See," Said the Blind Man as He Looked at His Hammer and Saw

by Darin Bufalino, W100579, MCI Plymouth, MA

Of the over two million men, women and children incarcerated in the United States, 85 percent of those incarcerations are rooted in some sort of alcohol, drug, or substance abuse.

The numbers you have just read or not fictional, nor is the following story. What you have just read is sad; what you are about to read has broken more hardened criminals than any sentence a trial court could hand out.

This is a familiar story to many substance abusers. There is always going to be one person, a loved one usually, who is your "rock," "right hand," "hammer" — whatever name you use it comes down to the same thing: he/she is the one person in your life who believes in you, believes in the person you could be if only you quit using. The one person in your life who truly loves you for you, who is there for every court date, every visiting day, and is waiting for your release date and unlike others, is happy you are coming home.

This person has been lied to on so many occasions, on so many levels. Simply put: "Are you using?" "No baby, are you crazy? I'm sober as a judge." Another scenario is: "Why are you doing this to me? I love you, what is wrong? Why are you using?" The usual response is, "Hey, I'm not

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## From the Editors

*Ann Schwartzman, Executive Director of the Pennsylvania Prison Society, recently released the following opinion to the media in Pennsylvania:*

The oldest prison reform agency in the world supports Gov. Tom Wolf in his courageous move to declare a moratorium on the death penalty in Pennsylvania. The Pennsylvania Prison Society, founded in 1787, opposes the death penalty and agrees that there are too many outstanding questions about it.

We often hear of innocent individuals released from death row. Unlike other sentences, there is no reversible action when someone is executed.

The research indicates that the death penalty does not deter crime and costs the commonwealth millions in taxpayer dollars. We know that the loss of a loved one can never be made up by more loss.

Since there currently is a state-sponsored study to examine capital punishment in Pennsylvania, the logical move is to be prudent. This examination is needed to make sure the commonwealth is acting in a reasonable way by using all the information available.

We congratulate the governor for his deliberation and willingness to do what is right.

*It is our hope that this moratorium will eventually lead to a complete abolishment of the death penalty in Pennsylvania and then the United States as a whole. We will continue to battle for the end of the death penalty, working with several other organizations across Pennsylvania.*

## IMPORTANT INFORMATION REGARDING *GRATERFRIENDS* AND THE REVICTIMIZATION RELIEF ACT

The Pennsylvania Prison Society, publisher of *Graterfriends*, wants to inform our readers about the new Revictimization Relief Act, a Pennsylvania law that allows the state Attorney General, district attorneys, and victims of personal injury crimes (or their family members) to seek court orders preventing the people convicted of those crimes from engaging in any conduct that would cause mental anguish to the victim (or the victim's family members) or otherwise "perpetuate the continuing effect of the crime on the victim" (or the victim's family members). This conduct could include submitting letters or articles for publication in *Graterfriends*. In addition, the person convicted of the crime could be required to pay damages or to pay the victim's (or the victim's family's) attorney's fees and court costs.

# GRATERFRIENDS

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We reserve the right to edit submissions. Original submissions **will not** be returned. We **will not** print anonymous letters. Allegations of misconduct **must** be documented and statistics should be supported by sources.

Letters more than a page in length (200 words) **will not** be published in their entirety in Mailroom or Legal Chat Room, and may be considered for another column. All columns should be no more than 500 words, or two double-spaced pages.

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If you have a question about *Graterfriends*, please contact Mindy Bogue, Communications Manager at 215-564-6005 or mbogue@prisonersociety.org.



## GOVERNOR TOM WOLF ANNOUNCES A MORATORIUM ON THE DEATH PENALTY IN PENNSYLVANIA

*Press Release, Office of the Governor*

*Editor's note: On February 17, U.S. Attorney General Eric Holder recommended that all executions be put on hold while the U.S. Supreme Court is considering Glosip v. Gross. Speaking for himself (not the administration), at a press luncheon, Holder said, "'think a moratorium until the Supreme Court makes that decision would be appropriate.'*

HARRISBURG — On February 13, Governor Tom Wolf announced a moratorium on the death penalty in Pennsylvania that will remain in effect until the governor has received and reviewed the forthcoming report of the Pennsylvania Task Force and Advisory Commission on Capital Punishment, established under Senate Resolution 6 of 2011, and there is an opportunity to address

all concerns satisfactorily.

“Today’s action comes after significant consideration and reflection,” said Governor Wolf. “This moratorium is in no way an expression of sympathy for the guilty on death row, all of whom have been convicted of committing heinous crimes. This decision is based on a flawed system that has been proven to be an endless cycle of court proceedings as well as ineffective, unjust, and expensive. Since the reinstatement of the death penalty, 150 people have been exonerated from death row nationwide, including six men in Pennsylvania. Recognizing the seriousness of these concerns, the Senate established the bipartisan Pennsylvania Task Force and Advisory Commission to conduct a study of the effectiveness of capital punishment in Pennsylvania. Today’s moratorium will remain in effect until this commission has produced its recommendation and all concerns are addressed satisfactorily.”

This morning, Gov. Wolf took the first step in placing a moratorium on the death penalty by granting a temporary reprieve to inmate Terrance Williams, who was scheduled to be executed on March 4, 2015. Governor Wolf will grant a reprieve – not a commutation – in each future instance in which an execution for a death row inmate is scheduled, establishing an effective moratorium on the death penalty in Pennsylvania. For death row inmates, the conditions and confinement will not change.

## ACLU-PA FILES SUIT TO BLOCK STATE'S "SILENCING ACT"

*Press Release, The ACLU of Pennsylvania*

*Editor's note: The Pennsylvania Prison Society is one of the eleven plaintiffs in this lawsuit.*

PHILADELPHIA — The ACLU of Pennsylvania filed a federal lawsuit today on behalf of journalists, news outlets, advocacy organizations, and community leaders who were formerly incarcerated, seeking to block enforcement of a recently passed state law that stifles the free speech rights of thousands of individuals and organizations. Under the “Silencing Act,” a district attorney, the Attorney General, or a victim of a personal injury crime can ask a judge to prohibit an offender from engaging in any conduct, including speech, that would cause “a temporary or permanent state of mental anguish” to the victim or otherwise “perpetuate the continuing effect of the crime” on the victim. The law was passed this fall in response to a recorded commencement speech given by Mumia Abu-Jamal, who is serving a life sentence in a Pennsylvania state prison for the shooting of Philadelphia police officer Daniel Faulkner in 1981.

The law’s impact extends far beyond Abu-Jamal, however, affecting not only individuals who are in prison, but also formerly incarcerated persons as well as professionals, including journalists, who work with offenders. According to the lawsuit, the Silencing Act stifles public

**(See Silencing Act, continued on page 15)**

## UPDATE ON PENNSYLVANIA'S INCARCERATED MENTALLY ILL INDIVIDUALS

*by Mindy Bogue, Managing Editor*

On January 6, 2015, the Pennsylvania Department of Corrections (DOC) settled a lawsuit filed in March 2013 by the Disability Rights Network (DRN). The lawsuit sought to stop the “cruel and unusual punishment of prisoners in Pennsylvania prisons diagnosed with serious mental illness,” and maintained that the mistreatment of these prisoners violated their rights under the Eighth Amendment to the U.S. Constitution. Secretary of the DOC John Wetzel’s settlement will change the rules for using solitary confinement, and by mid-2016 will completely phase it out for prisoners with serious mental illnesses.

Executive Director of the Pennsylvania Prison Society Ann Schwartzman called the reforms an important step, but acknowledges that the fight continues. “Unfortunately, this doesn’t go far enough,” she said. “But at least it’s a start. For years we haven’t been able to move on this issue. Now, people in dire need will be able to get some assistance.”

Some changes brought forth from the settlement include:

- Incoming prisoners will be screened for mental illness. Those diagnosed with a mental illness must be taken out of general population and be

**(See Mentally Ill, continued on page 15)**



## Legal Forum

### TRANSGENDER/GAY INMATES DENIED EQUAL ACCESS TO WORK AND PROGRAMS

by Eric J. Wolfgang (aka Miley), BZ-2211, SCI Mahanoy

The Pennsylvania DOC and SCI Mahanoy policies are unconstitutional, and violate the Fourteenth Amendment — the guarantee of equal protection to all individual's rights. Currently, at SCI Mahanoy, the general population has access to work details, rehabilitative programs and educational vocational school. Individuals who are transgender or gay are "H-coded" (high security risk) by Mahanoy and denied those work details, rehabilitative programs, and educational vocational schooling to obtain skill training. Unlike prisoners in the general population, transgender and gay inmates are denied access to rehabilitative needs to make an effort to be released back into society.

While prison officials have an obligation to keep all inmates safe from harm, they cannot achieve that goal by subjecting individuals who are transgender or gay to harsher conditions, or by denying them access to services simply because of their sexual orientation or gender identity. But SCI Mahanoy is doing so, because it is up to the institution to issue transgender and gay inmates an H-code status.

Such policies are unconstitutional and unwise. Inmates who are provided vocational training and treatment services are more likely to find work, stay clean, and ultimately remain out of the criminal justice system. The law does not permit local law enforcement to discriminate or dehumanize an individual simply because they are transgender or gay, yet that is what officials have been allowed to do at SCI Mahanoy. It's unlawful and must be stopped. All inmates are to be provided equal access and treatment programs as required by state and federal law.

### MOVING?

Are you being transferred to another prison, or getting released? Please inform the Prison Society so that we can change your address in our database. We don't want you to miss any issues of *Graterfriends*. Please write to the address on the bottom of page two.

### JUVENILE LIFERS

by Malcolm Rowe, BU-6777, SCI Smithfield

After doing some serious brain storming with a few other inmates here at SCI Smithfield, we all came to the very same conclusion: a class action suit filed on behalf of the 500-plus Pennsylvania juvenile lifers may be our only real recourse. And, after doing some of my own personal legal research on this, I learned that's exactly what the inmates in Michigan did. Yeah, the juvenile lifers from Michigan didn't do a criminal-style litigation: instead they filed a class action civil suit.

Their class action civil suit argued that because the Michigan state appeals court decided to ignore the federal court's ruling in the *Miller* case (Miller rule of retroactivity), this direct bias and prejudice by Michigan's authorities was a direct violation of that state's juvenile lifers' constitutional rights. It was an Eighth Amendment violation as the following indicates: "Two federal districts courts have summarily concluded that the *Miller* rule applies retroactively as a new substantive rule."

Also, there is a Fourteenth Amendment violation here that was argued in their class action civil suit. The following is a paragraph from the Michigan case:

"Two federal district courts have summarily concluded that the *Miller* rule applies retroactively as a new substantive rule. See *Hill v. Snyder*, No.10-14568,2013 WL 364198, at\*1-2 (E.D. Mich. Jan. 30, 2013) (holding the *Miller* rule is retroactive to 42 U.S.C.S 1983 plaintiffs who challenged the constitutionality of a Michigan statute that prohibits the Michigan parole board from considering for parole those sentenced to life in prison for first-degree murder.) The court noted that 'if ever there was a legal rule that should — as a matter of law and morality — be given retroactive effect, it is the rule announced in *Miller*. To hold otherwise would allow the state to impose unconstitutional punishment on some persons but not others, an intolerable miscarriage of justice.' Id. at \*2. In a footnote, the court stated it 'would find *Miller* retroactive on collateral review, because it is a new substantive rule, which generally applies retroactively.'"

The juvenile lifers in the state of Michigan had to come together on a class action civil suit that was filed on their behalf in federal court. See, there was indeed a miscarriage of justice that was being done to them by their state officials. So, they decided to challenge the biases and prejudices that were in place to make them second class citizens of our great nation. We Pennsylvania juvenile lifers are going through the exact same thing that Michigan inmates were going through. And, after the filing of their class action civil suit and a federal judge ruled in their favor, the Michigan state appeals court made *Miller* retroactive in their state.

So, now I am looking at the bigger picture. In Pennsylvania, we prisoners have a lot of legal resources for us to

(See *Juvenile Lifers continued on page 17*)

## PENNSYLVANIA LOSES MILLIONS A YEAR BECAUSE OF LEGAL LOOPHOLE

by Shawn Cole, FW-7266, SCI Mahanoy

Pennsylvania is losing 20 million dollars every year because there is a legal loophole that allows judges to sentence nonviolent African-American drug offenders past the statutory maximum sentence of 10 to 20 years in prison for less than 1000 grams of cocaine. (See 35 P.S. 780-113(f)(1.1) & 35 P.S. 780-115)

Until 1999, the Pennsylvania courts never sentenced a defendant past 10 to 20 years in prison when they were convicted with less than 1000 grams of cocaine. Then, in 2000, the Pennsylvania Supreme court ruled in *Commonwealth v. Vasquez*, 753 A.2d 807, 809 (Pa. 2000) that judges can treat each drug buy as a second conviction to enhance a defendant's sentence.

Now, the way Pennsylvania interprets the law causes nonviolent African American drug offenders to receive a more severe punishment.

The problem is that police officers know this is a legal loophole, so instead of making one drug buy off a defendant with the use of an informant, the officer will make five or 10 buys off a defendant, then charge them with that many counts.

A person convicted with selling 900 grams of cocaine to an informant once will receive less prison time than a person convicted of selling 125 grams of cocaine to an informant on three occasions (total of 37 grams of cocaine).

The person convicted with 900 grams of cocaine will be sentenced 7 to 14 years in prison (less than the statutory maximum of 10 to 20 years for less than 1000 grams of cocaine). However, the person convicted with three counts of 125 grams of cocaine (all to the same informant, same arresting and same sentencing day) will be sentenced to 21 to 42 years in prison because the judge decided to run each count consecutively.

All appeals will be denied and the appeal courts will say that the judge didn't exceed the statutory maximum of 10 to 20 years in prison for each count, but when the judge ran the counts consecutively, they then exceeded the maximum. The courts allow this legal loophole because this type of sentencing is geared toward African-American drug offenders, costing the state \$36,900 per inmate each year. It is estimated that 600 nonviolent African Americans are doing more than 10 to 20 years in prison when they were convicted with less than 1000 grams of cocaine.

Who can I write to get this legal loophole fixed? I've written legislators, but no one has returned any of my letters.



## 15 MINUTES TO FOREVER

At the start of this journey over a decade ago, my husband and I knew two things: 1) we loved each other; 2) we wanted to be together despite having to navigate our now legal separation as measured by a prison sentence between us. "Together" is challenging in this life when almost every interaction does more to keep us apart. All the ways in which couples communicate affection are limited, if allowed at all. We speak in 15 minute intervals. We argue and (try) to make peace in 15 minutes. We share joys and life woes in 15 minutes. We please each other in 15 minutes. Over time, those 15 minutes become the longest 15 minutes ever. No matter what's happening for him inside, life for me — out here — goes on. Many times, he needs 15 minutes at the exact time I don't have 15 minutes to spare.

Whatever happens in those 900 seconds has a huge effect on the hour we get to see each other — an hour that goes by way too fast with a visit always under a watchful eye and guided tone. In those moments, the chasm grows bigger. Even when we are together, we are so very far apart. "Together" seems like a foreign concept. The longer the journey continues, this pattern becomes routine. The closer he gets to coming home, the further the distance. He's the voice on the phone and I'm the chick waiting. He fights for relevancy, while I fight for my independence and freedom from a world that tests togetherness and threatens every ounce of fondness.

Every couple I know who have been reunited after incarceration have long called it quits. In fact, the "quitting" happened years ago while they were going through the motions. Despite what we like to think — absence makes the heart grow fonder — quite the opposite is true. There are times where I've been downright exhausted from the "someday, one day, any day(s)," because those days are not today.

When my husband and I started this journey, we knew two things: 1) we loved each other; 2) we wanted to be together. We know many more things now, but the most important of all is this: The only way to make it together in a 24/7 real time is to be together now...in 15 minutes.

*Reesy Floyd-Thompson is the founder of Prisoners' Wives, Girlfriends, & Partners (PWGP). For more information about this group, please write Reesy at:*

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## Our Voices

### GAINING PAROLE

by Lee Whitt, JZ-5098, SCI Albion

It is a process that thousands of us that are incarcerated go through every day/week/month/year: trying to get parole. In the state of Pennsylvania, it can be one of the most difficult tasks that you can even think about achieving, let alone actually achieving it. The hoops that you have to jump through... even a circus would be impressed with that act! Every year it seems to get worse for us. I have seen changes range from bad to worse over the last 20-plus years for myself and the rest of us in the DOC of Pennsylvania. Yet we still “fight the good fight.”

Something that I have thought about, and discussed with others, is the fact that I believe that the institution you are in should be the one that makes the decision regarding parole. Why? Simple: it’s the COs, counselors, unit managers, work supervisors, teachers, etc., who are the ones that come to know you, how you have changed. Instead of putting the power in their hands, it is given to a board of individuals who go by what they see in your file. From what little I have gathered about the parole board, they are all biased against us from the beginning because of their previous employment position. I have been told that at least one of them is a former prosecutor. Seriously? How can we expect a fair shake with that?

If the staff of the facility that I have lived in for X amount of years cannot make the right choice concerning myself and parole, who can? After all, doesn’t the DOC put these people in charge of the “custody, care, and control” of me? If they are not capable of making the proper decision about whether or not to let me go, why are they made to be responsible for me at all? These people are around us 24/7, providing us with help in every aspect of life, yet they’re put in the background when the time comes for us to be considered for release. It sounds like a system set up to defeat itself. If the DOC is about the warehousing of prisoners (like many of those involved think), it makes sense. For a state as broke as this one is supposed to be, they sure do have the money to keep us in here and to build more!

When guys that I know come up for parole consideration, they asked me about what they should tell the parole board. I tell them to go in to the interview with a blank slate. Think about it: the parole board sees X amount of us each day, each week, each month of the year. If they don’t have the ability to sniff out a person trying to feed them a line, then they aren’t as smart as we think. You can’t prepare a story for them. You have

**(See Parole, continued on page 16)**

### ARE CORRUPT CRIMINAL PROSECUTORS THE NEW OUTLAWS?

by Lorenzo ‘Cat’ Johnson, DF-1036, SCI Mahanoy

*“Justice will not be served until those who are unaffected are as outraged as those who are.” – Ben Franklin*

While operating with total disregard for precedent case law that defines our constitution, these prosecutors are prosecuting cases daily with a reckless abandonment for human life and the same judicial system they took an oath to serve to the best of their ability. It’s not about law and protecting the innocent. These same prosecutors operate under full immunity, and some have aspirations to be judges. Now, with no fear of criminal sanctions for their corrupt ways and actions, what reason do they have to stop? There are multiple innocence organizations in every state. Now there are “integrity units” popping up all over the place. If integrity units are over-seeing cases that have been called into question, that affirms that something has gone afoul in the prosecutors’ offices nationwide.

Tools that are most frequently used to assist corrupt prosecutors vary. To name a few: false convictions, witnesses, evidence, motives, withholding of DNA, and non-DNA Evidence that can show a prisoner’s innocence. One of the biggest tools is strict procedures that have been

**(See Criminal Prosecutors, continued on page 18)**

### DOJ WHO?

by Braheim Staten, GJ-2070, SCI Frackville

Due to the U.S. Department of Justice’s (DOJ) investigation into the mistreatment of mentally ill prisoners, the Pennsylvania DOC was forced to change/upgrade a lot of their policies to help improve the treatment and environment for prisoners with mental health issues. While these policies are now in black and white for prisoners to view, nothing here at SCI Frackville has changed! The Special Needs Unit (SNU) is now documented in the 13.8.1, access to mental health care procedures manual as the “residential treatment unit (RTU). This name change was to give a mentally ill prisoner a sense of respect and self-worth, rather than being called a “special needs” inmate. The new policy has an effective date of November 4, 2014. As of today, January 14, 2015, nothing else in that updated policy is being utilized!

I’ve been on the RTU for almost five years and it’s always been the same: they’ll initiate groups and programs to try to help stimulate us, and a few weeks or months later, those groups almost always disappear. According to this new policy, we should be overwhelmed with activities and groups, but that is far from the truth. To get out of a hefty lawsuit, all of the stability “D” codes [prisoners deemed as suffering from severe mental illness] were shipped to prisons that had better staffing to deal with their mental health issue, but the “C” stability codes (such as me) [prisoners deemed as suffering from mental

**(See DOJ Who?, continued on page 18)**

## RE: WHAT ARE THE FACTS ABOUT SCI PHOENIX?

by Hugh Williams, AF-2932, SCI Graterford

In answer to the question posed by contributing writer, Maureen Bellwoar, “Do you want these prisons built?” and the call “I want to hear from you,” allow me to pass on the following. I believe I speak for all lifers currently housed in Graterford and as proof, I filed a petition for review with the commonwealth court in late July challenging the DOC plan to double cell everyone when Graterford closes and Phoenix opens. The basis of this challenge is that those sentenced under 18 P.S. §2501 are sentenced to be housed in separate and solitary confinement, and that Governor Corbett and DOC Secretary John Wetzel knew or should have known that authorizing and building Phoenix designed to house two men in a single cell, regardless of sentence, violates those statutes. The case is *Williams V. Corbett, et al*, 411 M.D 2014.

In response, Corbett and Wetzel demurred to the facts, but claim we lack standing because we have not yet suffered an injury. Neither Corbett nor Wetzel has played a part in the decision to double cell everyone. Anyone familiar with that court knows it is notoriously slow. Yet, within a week’s time of our response to their preliminary objections, the court ordered respondents to brief their objections. Their brief was filed November 30 and we filed our brief December 15 though it wasn’t due until December 31. As I previously said, I believe I speak for nearly 800 lifers who have spent decades in a single cell and are not inclined to cell with anyone. What is important is that the law, as we understand it, is in our favor.

We — and I mean all prisoners — agree that building Phoenix is “penny-wise and pound foolish.” Spending nearly a half-billion dollars for two new prisons is wasteful in view of the fact that, as Secretary Wetzel said, repairing Graterford would cost \$50 million, but in the long run — and we are speaking decades — money will be saved. In other words, fewer staff means less money spent on salaries and pensions. In the meantime, children are suffering from lack of teachers, books, computers, nurses, etc. Prisons have become the economic engine in this state and un- and under educated children are destined to populate prisons, new and old.

According to the few pictures or schematics we’ve been able to see, there will be less opportunity to play wall balled sports that help us to stay reasonably healthy and less stressful. Though this may appear to be mundane and of little consequence, the lack of a wall, as desirable as it may be, doesn’t take the place of healthy exercise that those infamous walls provide.

While I agree that our imprisoned sisters need to be closer to home, a far less costly facility could/should have been built and better still, passing a bill that grants lif-

(See SCI Phoenix, continued on page 17)

## GONE TOO SOON

by Sharrone Gray, OH-8362, SCI Cambridge Springs

My dearest friend; Renee Najah Thomas was her name. Everything that she stood for was that of love, peace, and respect.

She took time out to teach me and lead me. She never condoned any foolishness and would call me out on my faults like a sister should.

She gave her time and energy consistently. Allah was always first in her life and never once did I hear her complain of her sentence.

She walked with a purposeful stride, head held high, and a sense of confidence. No, she wasn’t bold or arrogant, she was simply gentle and kind. No matter what was going on in her life, she always took the time to help another, even if it meant giving you her last “whatever.”

(See Too Soon, continued on page 16)

## SOCIETAL NORM DRONES

by Khalil Hammond, KC-9993, SCI Frackville

Exactly what goes on every day behind the walls that confine so many good and bad individuals, who are carelessly made part of a system that has one corrupt agenda, which is to profit off of the ignorance of society’s “free spirits”? A lot! But it’s crazy when you really sit back and begin to understand that those in society aren’t that much freer than those in jail!

You may wonder why I said this, or what could make me think this. It’s simply because it’s true! Sigmund Freud said that, “normality is an ideal fiction,” and that “normal” is often mistaken for “natural” in the minds of society; but this understanding is nothing more than an ignorant misunderstanding. By definition, normal means “the expected or usual condition or amount; standard.” With that being said, it’s safe to say that the “normal” most people understand — or should I say “misunderstand” — is a misconception and false reality. No one is the same, but in order to be normal we must act to be in conformity with set standards.

Location and neighborhood can help shape ideals and basic local norms, but overall, society has a set of norms that if strayed from, one is ostracized and made to look like the alien or outcast who doesn’t belong. Most people’s whole lives will be spent trying to achieve normal, while chasing someone else’s delusional depiction of happiness. Who has the power to tell you what can and will make you happy except you? No one — unless you, we, or I allow them to.

Most people spend so much time pretending to be happy or chasing society’s depiction of what happiness is, that it’s likely they’ve never known true bliss and proba-

(See Norms, continued on page 14)



## Report from Nicole Sloane, Esq. Criminal Defense Attorney

### CHALLENGING SORNA: RETROACTIVE APPLICATION

Pennsylvania's Sex Offender Registration and Notification Act or "SORNA" was implemented in December of 2012 and has resulted in retroactive reporting requirements for many individuals. For some, SORNA has resulted in additional responsibilities. For others, SORNA lengthened the reporting requirements. Still others, many of whom had not been required to register under Megan's Law, are now subject to reporting and registration requirements under SORNA.

This article intends to provide the latest information pertaining to the retroactive application of SORNA. It is difficult to keep up with the ever-changing law and appellate court analysis of SORNA. Anyone who believes that the law supports a challenge to his registration requirements should, if possible, reach out to a competent attorney for assistance.

One appellate court decision pertaining to retroactive application of SORNA is *Commonwealth v. Bundy*, 2014 PA. Super. 144 (Pa. Super. Ct. 2014). Appellant Bundy appealed from a trial court order denying his petition seeking relief from retroactive application of the registration requirements. Siding with Bundy, the Superior Court found that recent changes to 42 Pa.C.S. § 9799.13(3.1) provided exceptions to retroactive application of registration in Bundy's case. In fact, the Superior Court panel held that Bundy was not required to register.

By way of background, in 2009 Bundy negotiated a no contest plea to the offenses of Indecent Assault and Corruption of Minors. At that time, the specific subsection of Indecent Assault to which Bundy plead was graded as a second-degree misdemeanor and was not subject to registration requirements under Megan's Law. Unfortunately, Bundy violated his probation in 2011 and was resentenced. Several days later, the Governor signed Act 111, which included language that held Indecent Assault to be a sexually violent offense triggering 25 years of registration for those who were still incarcerated or supervised either by the parole board or county probation.

On December 20, 2014, a year after Act 111 was enacted, the registration and applicability requirements took effect. Since Bundy was serving his probationary term at the time, he was informed that he was subject to Megan's Law's registration requirements under SORNA.

Two months later, Bundy's attorney filed a petition

asking the court to enter an order giving Bundy relief from the reporting requirements. The trial court denied the petition and Bundy appealed.

Before Bundy's appeal was resolved, the General Assembly passed HB 1985, which was signed by the governor on March 14, 2014 and enacted the same day but was "effective" on December 20, 2012, the date that SORNA was implemented. The Act inserted 42 Pa.C.S. § 9799.13(3.1), which eliminated retroactive application of SORNA for select offenses, including Indecent Assault graded as a second degree misdemeanor. Refer to the § 9799.13(3.1) for a list of the other offenses. The change in the law provided Bundy with relief from reporting pursuant to SORNA.

A second problem associated with Pennsylvania's retroactive application of SORNA impacts individuals who entered plea bargains in consideration of reduced registration requirements. For a more thorough analysis, refer to the non-precedential decision of *Commonwealth v. D.L.W.*, 2741 EDA 2013 (Pa. Super. Ct. 2014). In 2004, D.L.W. entered a negotiated plea to indecent assault and endangering the welfare of children. He was required to register for 10 years under Megan's Law. Because the 10 year registration requirement for the subsection of Indecent Assault he plead to had not yet expired, 10 years became a lifetime requirement pursuant to SORNA when it was implemented in 2012.

On appeal, the Superior Court found that if the 10-year-reporting requirement had been bargained for as part of a plea agreement, the trial court must enforce that plea agreement as an issue of contract law. The Superior Court remanded the matter to the trial court to review transcripts to determine whether the 10-year reporting requirement was indeed a bargained for part of the plea bargain in his case.

What steps do you take if you were notified that you must register pursuant to SORNA, but believe that there is a valid argument that you should not have to register? I suggest that you first contact your attorney or the public defender of your committing county to help you challenge registration requirements. If you must act without assistance of counsel, file a petition before your sentencing judge seeking to enjoin further requirements to register. You may want to attach a copy of this article and ask for appointment of counsel to help you advance your arguments. I have personally been successful in filing

**(See Sloane continued on page 16)**

**NOTICE:** This report is provided for informational purposes only. It should not be substituted for advice by an attorney familiar with the facts of a specific case. Unfortunately, Ms. Sloane cannot address individual questions or provide advice on individual cases. For additional information, you should consult with your trial or appellate counsels.



# Think About It

## MY IDEA FOR FIXING THE SYSTEM

by Darryl "Tweet" Wilson, AP-9944, SCI Pittsburgh

I'm finishing my 30 years for a crime I did not commit. I was forced into this living nightmare and when I max out July 30, 2016, my nightmare only gets worse — I'll be homeless. All my loved ones are gone.

I was watching channel 11 in December 2014 when they read a report about corruption. Pennsylvania was first on the list as most corrupt. I'm at SCI Pittsburgh and anyone who knows what living is like in the old blocks knows they're too small to double cell. To put two men in one of these cells is inhuman; in the summer those cells are hot when the outside temperature is over 70 degrees because there is no air, just a vent that blows warm air.

This state closed two good prisons and want more money to build another. This state is playing games with tax dollars and they'll do whatever it takes to keep prison a business. That's why Tom Corbett took that one billion dollars from our schools, so he could spend it to keep the parole board. What do you think is more important, Pennsylvania's schools or putting a man back in prison for \$35,000 a year because he broke a rule by staying out late. On January 13, 2015, the TV news said five more grade schools were closed that day.

To keep the parole board takes funds from our kids' schools. What good is the parole board — other than putting inmates back in prison for no reason? Their job is to keep prisons full, to keep the prison business moving.

I have a plan that can save the state close to one billion dollars and stop prison overcrowding at the same time.

The prison staff know the inmates in their prison better than the parole board. Therefore, the prison can be in charge of paroling their inmates. As for the inmates who are free but still have parole to walk off, as long as they don't commit a crime, allow them to live their own lives. If an inmate does commit a crime and is found guilty, the prison he goes to will give him the parole time needed. It's a win-win: the state saves close to a billion dollars, and prison overcrowding will stop. Therefore, the parole board is in the way. That billion dollars can reopen those schools that were closed.

There are inmates in prison who have been paroled but can't get out because the parole board won't allow them to live with a family member. They want us to go to a halfway house, but so many halfway houses are drug-infested and the state knows and doesn't seem to care. That's why I'm maxing out. I told parole, "I'm not going to a halfway house if I can't go to a home, I'll max out."

The system's a game and if someone can't stop it, it's only going to get worse.

## TIME FOR A CHANGE

by Ralph Roman, GP5705, SCI Forest

Recently, Ken Paulson, President of the First Amendment Center, Dean of the College of Mass Communication at Middle Tennessee State, wrote an article ("Beware Revenge Porn Laws) in *USA Today* about bad behavior inspiring bad laws. While I commend him on his article, it only uncovers the tip of the iceberg. Too many individuals find themselves pitted against angry, vengeful, manipulative persons who use current laws and willing prosecutors to bring criminal charges against their paramour for retaliation or revenge. Crimes of rape, sexual assault, child rape, and child molestation, to name a few, are levied upon an unsuspecting individual, with devastating results.

The law is meant to protect all. Over time, some of our laws become obsolete and need to be updated. Such a law is Title 18, Pt. II, Article B, Ch. 31, Subch. A, §3106 Testimony of complainant, which begins: "The credibility of a complainant of an offense under this chapter shall be determined **by the same standard** as is the credibility of a complainant of any other crime," (Emphasis mine).

"The testimony of a complainant **need not be corroborated** in prosecutions under this chapter," (Emphasis mine).

What? Isn't that a 180-degree turn-around? You would think that part of the law would be unconstitutional because it shifts the burden of proof onto a defendant. How else would one defend themselves against any accusation, but to deny the claim, thus shifting the "burden of proof" onto the accuser (prosecutor) to prove their allegations beyond a reasonable doubt that a crime was actually committed? Surely the courts have addressed the constitutionality of this law, right?

According to Criminal Law & Procedure: Trials: Burdens of Proof: Prosecution: 18 Pennsylvania Consolidated Statutes §3106, allowing for rape conviction on a victim's uncorroborated testimony is constitutional. (*Commonwealth v. Joseph Pete Smith* 280 Pa. Super. 222, 421 A.2d 693, 1980) but when reviewed under closer scrutiny, the Pennsylvania Superior Court's opinion (by Judge Hoffman) states:

"Significantly, appellant has not alleged that the statute is unconstitutional. Thus, we may not strike down

**(See Change, continued on page 16)**



# Legislative Highlights

by Katy Morton, Intern and Ann Schwartzman, Executive Director

The Pennsylvania General Assembly just began the 2015-2016 Legislative Session. Any bills not passed and signed into law in the prior session must be reintroduced. Below please find criminal justice bills that are either reintroduced or new. If you can access the Prisoner Reentry Network, check the Legislative tab on top to be able to search for bills and additional information. [www.phillyreentry.com](http://www.phillyreentry.com). Please note that these bills are current as of February 18, 2015.

BILL NO. PRINTER NO.	DESCRIPTION	CHIEF SPONSOR	PPS POSITION
SB 126 PN 75	Re-introduced from last session, this legislation would allow lottery winnings to be intercepted to fulfill any outstanding court-ordered restitution payments to victims. <b>(Referred to Senate Judiciary Committee 1/14/15)</b>	<b>Sen. L. Boscola</b> D-Lehigh, Northampton, and Monroe counties	<b>Oppose</b>
SB 127 PN 76	Re-introduced from last session, this legislation would allow individual income from tax refunds to be intercepted to fulfill any outstanding court-ordered restitution payments to victims. <b>(Referred to Senate Judiciary Committee 1/14/15)</b>	<b>Sen. L. Boscola</b> D-Lehigh, Northampton, and Monroe counties	<b>Oppose</b>
SB 163 PN 99	Expands protections and provision of services for children of incarcerated parents. This bill includes a sentence that reads, "The rights of a parent shall not be terminated solely on the basis of parental incarceration," as well as language giving the court the authority when determining whether the rights of an incarcerated parent should be terminated to consider if the parent is making an effort, to the extent feasible, to comply with the family service plan requirements and otherwise maintaining a meaningful role in the child's life during the time of incarceration. Provides for an arrest policy for parents with children. <b>(Referred to Senate Judiciary Committee 1/15/15)</b>	<b>Sen. S. Greenleaf</b> R- Montgomery and Bucks counties	<b>Support</b>
SB 164 PN 100	Amends the Judicial Code, Title 42, of the Pennsylvania Consolidated Statutes, to require municipal law enforcement agencies to have a policy that governs procedures for strip searches and body cavity searches. <b>(Referred to Senate Judiciary Committee 1/15/15)</b>	<b>Sen. S. Greenleaf</b> R- Montgomery and Bucks counties	<b>Support</b>
SB 166 PN 102	Amends Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in criminal history record information; provides for expungement of criminal history record. The proposed bill is similar to former Senator Solobay's bill (see Legislative Highlights from previous issue of <i>Graterfriends</i> ). It proposes seven years of good conduct for expungement of third degree or unspecified misdemeanors, 10 years for second degree misdemeanors of in individual is less than 25 years old. <b>(Second consideration in Senate 2/18/15)</b>	<b>Sen. S. Greenleaf</b> R- Montgomery and Bucks counties	<b>Support expungement</b>



## The 40 Percent Who Don't Make it Back to Prison: Who's to "Blame"?

by Michael Zirulnik

**Note to readers:** This is the first part of a special four-part series to be published in subsequent issues of *Graterfriends*. The essay was originally written for the eyes of policy makers, academics, and those who directly influence policy. After careful reflection, I've come to realize that it is also those who reside behind the walls of our nation's prisons and those who make the choice to stay out that can even more powerfully influence public policy in our local communities and in our nation. —M. Zirulnik

### Part I: Crime, friends, and family

Late night is usually the time for crime, reports the U.S. Bureau of Justice Statistics. That's also the time for mass arrests in this nation. And just around that time of day, roughly 1:00 a.m., my new friend David, the newest building manager at the high-rise where I live, said to me in a solemn voice, "I'm gonna show you somethin' man, this is crazy...it haunts me man, it really haunts me."

A gentle man in his thirties, David is just about the same age as me. He has a bald, shaved head; some neatly trimmed facial hair, and a glowing smile that is set atop six feet, four inches of nearly 300 pounds of mass, maybe more. Not really fat nor a body-builder, he has an average frame, but one that commands attention from its sheer size. I've never asked, but his skin is so light I think he's white, but from his affiliations, and his remarks about "the white people" I've come to assume he's not. Latino, Black, mixed? I really don't know but it's clear that his skin color allows him to transit between racial barriers and boundaries. It may be a factor that, while I'm sure it has caused issues for him, could also have saved him.

He began flipping through photos on the shiny smart phone that was set on the desk where he sat most of the night protecting the building. The very same desk I found myself leaning over for nearly an hour, chatting about this and that. You know...the usual stuff you talk about with your pals. This time it was a bit deeper: we chatted about life, living, and growing up. I could tell that our friendship was building. Our lives were markedly different, but oddly, so similar. My childhood was spent in a loving East Coast suburban neighborhood; his on the unfriendly streets of the urban Pacific Northwest.

Seattle is a place most of us think of as a quaint city for lovers, an image etched into our minds by that 90s flick, *Sleepless in Seattle*. Others think of it as the home to technology and aviation where Microsoft and Boeing reside. There is another side, one the city fights valiantly to disguise; crime and punishment — gangs and gang banging, drugs, prostitution, theft, assault, homicide. It's

something all big cities deal with but try desperately to quell so that commerce and investment will continue to thrive. But does quelling and silencing gangs address the issues long-term? In a nation with the highest incarceration rate in the world, and a recidivism rate of roughly 60 percent (according to the US Bureau of Justice Statistics), what happens to the other 40 percent?

Still flipping through photos on his phone, it was now two in the morning before daybreak on Monday when David exclaimed, "Nah, nah, never mind man, I can't show you this." His head hanging low, shaking back and forth, as he fidgeted with the phone, contemplating.

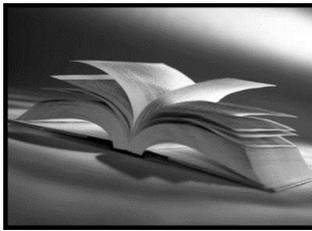
"Come on David, you know I spent a decade working the streets on an ambulance. There isn't anything you can show me that will disturb me," I said, trying to persuade him to give up the mystery photo on his phone. "Only dead babies bother me!" Relenting, David took a deep breath, sighed, looked back up at me with his deep brown eyes, then to his phone, gripping it tightly, he flipped it over and there I saw it. "The police sent this to my family as a 'gift.' It haunts me man, it *really* haunts me." In this two by four inch digital frame there it was. It wasn't going to disturb me I thought. Only dead babies bother me...*to be continued.*

### Please Remember our Submission Guidelines

Because *Graterfriends* is published less often but with more pages than in the past, we ask that you please follow the guidelines (see Page Two) regarding submissions. This will allow us to be more efficient while including as many articles as possible. Thank you.

These guidelines include:

- Letters more than one page in length (200 words) **will not** be published in their entirety in Mail-room or Legal Chat Room, and may be considered for another column. All columns should be no more than 500 words, or two double-spaced pages.
- To protect *Graterfriends* from copyright infringement, please attach a letter stating, or note on your submission, that you are the original author of the work submitted for publication; date and sign the declaration. **If we do not receive permission to print your submission, it will not be published.**



## Literary Corner

### THE MIRANDA RAP

by David McGinley, CX-1921, SCI Waymart

You've been accused of a crime most violent,  
So you got the right to remain silent,  
To help you along on this legal journey,  
You got the right to have an attorney,  
If you can't afford an attorney, son,  
We're obligated to appoint you one,  
Give up these rights and whatever you say,  
Will be used against you on your trial day,  
And, yeah, you got the right to a trial,  
But then you'll be stuck in prison a while,  
So don't take a trial 'less you wanna fake it,  
If you're offered a plea deal you'd better take it,  
'Cause the sentence you'll get if you don't will be,  
Three times as long as the one with the plea,  
Now that ain't justice as everyone knows,  
But this is America and that's how it goes.

### TO SOMEONE SPECIAL

by William "Juicy" Coward,  
#1032849, House of Correction, Philadelphia

To someone special  
You gave me life  
When I was lost  
You gave me joy  
When I was sad  
You pick me up  
When I was down  
You brighten my day  
When no one  
Else was around

To someone special  
You gave me  
Strength when I was weak  
You were my  
All when I had nothing  
To someone special

Do you want to subscribe to  
*Graterfriends*?  
See the order form on  
Page 18.

### IN LOVING MEMORY OF MY BELOVED GRANDFATHER, FRANK NICK MONTELEONE

by Dawn Ball OL-0342, SCI Muncy

You are my life and universe forever and always.

Thank you for raising me with Mama, and always being there for me through everything. I'm so sorry that I could not be there for you like you were for me my whole entire life. It hurts and I'm crushed. I will always be full of grief. My heart will always ache. Please say, "Hello" to Mama and Chrissy and to the rest of our family in Heaven with you. I can't wait for the day that we all will be reunited with each other again. I long for that day, my Papa. It has been a year now and my heart still aches for you and always will.

### FORGIVE IF EVER I FORGET

by Anthony "MENES" Hannah, EK-4714, SCI Somerset

In the very beginning she was a stranger. As time and space took place she, to my astonishment, became my well-situated friend. I guess you're wise enough to know that friendships don't exclude obstacles, dilemmas, discouragement, struggle and strife. All and even more of which we experience of the course of building a supreme and everlasting union. Many quiet moments I sit or stretch out and wonder how we did it and continue to progress? How you did it? How you repeatedly caused yourself to appear on the darker side of these cold prison walls, visiting me? How you powerfully annihilated the gates of different slave plantations which held me captive against my free will — held me away from your deep love. I think of you in the light of our mighty ancestor, Harriet Tubman. The way she escaped slavery, made it up north, then returned repeatedly to free other sisters and brothers from enslavement. She could have just stayed up north, got a job, made a family, and went on about her new-found liberation. No matter to you when I was 45 minutes away or four hours up-state, you were there, like a trustworthy warrior-woman. By the omnipresent and omnipotent spirit of our beloved ancestors, this I do not ever want to forget. Woman, she, you are one powerful being. Each long trip up and back from these mountains, you signed on to see me. Know that I am thankful and never ever do I want to forget your grace, your tenderness, your tenacity, and your will to stay the course to capture my heart, mind, body, and spirit. There are times I may seem as if I take things for granted or less than they really are. Or I may have a nonchalant attitude, simply cool and unconcerned. Surface-wise this is true. However, regarding the truth of me in-depth, I am totally enchanted by your paramount love in addition to your selflessness. You mesmerize my mind with your dedication to the man you claim – me. I have a colossal amount of colorful letters, greeting cards and photographs, but I constantly fail to fully understand the strength o' you, Black Queen. Single mother, thoroughly

(See Change, continued on page 17)



## Bookcase

### LETTERS TO A LIFER BY CINDY SANFORD

*Letters to a Lifer* is a story of hope and transformation. But not the kind you might expect.

In 2010, the Sanford family had a chance encounter with a young juvenile lifer through his remarkable wild-life paintings. No one in the Sanford family had ever been incarcerated. Cindy's husband was a wildlife conservation officer and her grandfather was a police officer. Needless to say, their initial encounter with the young man sentenced to life without parole sparked great cynicism and mistrust. Their "kind" did not associate with prisoners.

But the young lifer's talent moved them and they are ultimately stunned by his character and integrity: two traits they did not expect to find behind bars. As they continue to communicate, first through letters and then visits, ultimately we see that it is the Sanfords that are transformed most by this heartwarming, true story.

**The Prison Society does not provide compensation for overcrowding in the Philadelphia Prison System.**

**It's simply a rumor.**

Contrary to what you may have been told, no compensation is available from the Prison Society — or any other agency — for individuals who have experienced overcrowding at the Philadelphia Prison System

*It's simply not true.*

The Pennsylvania Prison Society is a non-profit organization advocating for and providing initiatives that promote a humane, just and constructive correctional system.



## Announcements

### Walk-In Wednesdays at the Prison

**Society** is a new program to help returning citizens learn skills needed for successful reentry. These drop-in seminars focus on:

- Computer literacy and usability
- Resume Creation (key words, terms, Dos and Don'ts, etc)
- Elevator Speeches
- Job Searches (skills vs opportunities)
- Job Searches (electronic vs walk-in's)
- Financial Foundations (bank accounts, renting, leasing to buy, checks, credit cards, savings, checking accounts)

### Inmates diagnosed with psychological or psychiatric disorders after you were sentenced:

If you were diagnosed by the DOC with such a condition after you were sentenced, please contact The Center for Returning Citizens and request our case study questionnaire. We may be able to assist you in overcoming time bar for collateral appeal. Please do not call us or send records to us.

James Hendel  
Center for Returning Citizens  
1501 Cherry Street  
Philadelphia, PA 19102

### If you are a prisoner who has

**written a book**, Prisons Foundation wants to publish it. There is no charge to publish or read your book. Your book will be scanned and published exactly as we receive it. Any language is acceptable. It may contain drawings and photos. For more information, contact:

Prisons Foundation  
PO Box 58043  
Washington, DC 20037

### Fight For Lifers West In

**Pittsburgh, Pennsylvania**, has meetings every third Saturday at Thomas Merton Center, located at 5129 Penn Ave., Pittsburgh, 15224 at 10:00 a.m. until 12:00 p.m.. Contact FFLW at 412-361-3022 (leave a message) or at [fightforliferswest@yahoo.com](mailto:fightforliferswest@yahoo.com) for more information.

**“I See,” continued from page 1**

hurting anybody but myself. It’s not like I’m taking house money or pawning your jewelry!”

Addiction is a strange lover. When you are using you actually believe you are slick enough to deny using and that the people you are lying to believe you. As an addict, how many times have you seen sadness in the eyes of that one person? Too many to count? All the rehab stints, all the arrests, all the disappearing acts when you said you would be there but couldn’t because you were on the chase. How many phones have you thrown away or smashed because that one person was sitting home ringing you off the hook, worried with fear that you’ve been arrested, or laying on a slab OD’d?

Now, you go to prison again, maybe for a straight 10 years on top of the previous county and state bids you’ve already done. This is it! No more alcohol/drugs, no more crime, and no more time. You get into education, start working out. Years go by, and you are in the best mental and physical shape of your life. But it’s not easy, friends on the street are gone, family members are now dying, and you’re middle-aged in prison with a few years to go.

That one person is still there plugging away, working two or three jobs, getting old as well. It’s not easy being on the outside all alone with your man or woman locked up. He or she is still there every visiting day, tired, broke, and lonely, but still there for you – your “hammer.”

Have you ever noticed how perceptive an ex-smoker, ex-drinker, or ex-substance abuser can be? Sit across from an ex-smoker and you will hear, “You stink like cigarettes, do you smoke?” You could have last smoked a cigarette hours before, but to an ex-smoker it is like you are blowing secondhand smoke into his/her face. Yet, when he/she smoked someone could be smoking a Cuban cigar in a crowded car and it would not be noticed, actually it would smell nice.

A sober addict can tell in the space of one heartbeat if the person sitting across from them is high. There is no need for a scent, no need for a slurred word. It is second nature. A sober addict could be blind and still see that the person across from them is high.

So, you are at your best in years, sober and feeling good, the future is bright, your “hammer” is coming to visit. Because you are an addict you know the person sitting across from you is high. But wait, that can’t be, not my “hammer”! Yeah, I’m wrong, I must be imagining it.

Another visiting day, your “hammer” is high – no question about it: pinned eyes, slurred words, talking some nonsense that you can’t even follow. So, here it goes, “Hey baby, are you high?” “What? Are you crazy? No, I’m not high, just tired!”

In the space of that heartbeat, your world implodes from the heart. Oh my God, my Hammer, my best and only friend, this person who I love so much. The only person I love is not only high but lying to me about it. Flashbacks of previous visits, rewinding telephone conversations. It’s all there in your gut, you knew it all along and then the epiphany. The sudden realization that all those years – decades of thinking your using did not hurt anyone. You now see, when you were asked, “Why are you doing this to me?” and couldn’t comprehend. Now you see and feel the pain and broken heart of seeing your loved on in the grip of addiction? Now you see.

So that day in the visiting room, for the first time in my life, I said, “I SEE” as I looked at my “hammer” and saw.

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**Norms, continued from page 7**

bly never will. We do it to ourselves and feed it to others as well. Why is it so easy for most people in society to conform to things that help oppress them and make living life a task instead of an experience? They rely on corrupt lawmakers and politicians to “make them feel safe,” when our real safety needs to be from these people. If problems in Ferguson or Staten Island haven’t taught us anything, what will? The way things are going, we’ll all be imprisoned in the next decade or so.

Year after year, promise after false promise, elected officials do the same or similar things as all those before them. Who continually suffers while they exploit, extort, and falsely imprison with the illusion of attempted rehabilitation? We (society), the people of this capitalistic country, continue to suffer, while our “protectors” (government officials and elects) get rich and continue to do so off of our shortcomings and or naivety. Today, those in the military or police force are given a free pass to wreak havoc on those they have vowed to “protect and serve” — us!

Personally, I’ll never relinquish complete power or my beliefs to any being that walks on this earth. I’m recalcitrant by nature because I understand that we all come from kings, and kings are autonomous. I continue to strategize, formulate plans, and educate myself, because I now realize what’s so blatantly in most people’s faces the entire time: without education, money, and familiarity with those already in position, we’ll always be chasing that false depiction of happiness. By no means am I insinuating anarchy, because I do believe that structure is good, but we should have a real say instead of the current illusion of one. Life is really not that long and I want the most out of mine in a way that still allows me to be an individual instead of a “societal norm drone.”

### Silencing Act, *continued from page 3*

debate on critical issues, such as deficient prison conditions, mandatory life sentences for juveniles, and innocence claims, because reporters covering these issues now fear they will be prevented from or even penalized for publishing interviews with prisoners.

“Laws designed to silence anyone, even people society may find disagreeable, are unconstitutional and bad for democracy. This law reaches broadly, and could prevent innocent prisoners from seeking clemency, journalists from using sources to expose prison abuse, and formerly incarcerated persons from speaking publicly,” said Reggie Shuford, executive director of the ACLU of Pennsylvania.

Seven of the eleven plaintiffs, including Prison Legal News, rely on and publish speech by individuals convicted of personal injury crimes to inform the public and spur government action regarding issues of public concern. Those issues include wrongful convictions, prison conditions, penal policy, juvenile life without parole, and clemency. The other four plaintiffs are individuals formerly incarcerated for personal injury crimes who share their own experiences with a wide range of audiences to help reduce crime and facilitate successful prisoner reentry.

“It is equally important that prisoners be able to speak and the public be able to hear what they have to say as the eyewitnesses to the operation of the criminal justice system with a perspective no one else has. Everyone — even prisoners — has a right to free speech and expression free from government interference,” said Paul Wright, editor of Prison Legal News, a monthly magazine that reports on criminal justice issues and prison and jail-related civil litigation, including prison labor, rape and sexual abuse, and misconduct by prison and jail staff.

Today’s lawsuit, *Prison Legal News v. Kane*, is related to *Abu-Jamal v. Kane*, Case No. 1:14-CV-2148 (M.D. Pa.), a lawsuit challenging the law that was filed in November.

The plaintiffs are represented by Witold Walczak and Sara Rose of the ACLU-PA, Amy Ginsky and Eli Segal of Pepper Hamilton’s Philadelphia office, Tom Schmidt and Tucker Hull of Pepper’s Harrisburg office, and Seth Kreimer of the University of Pennsylvania Law School. Prison Legal News is also represented by Lance Weber and Sabarish Neelakanta of the Human Rights Defense Center.

### Mentally Ill, *continued from page 3*

housed in one of the two new types of short-term and long-term housing units. Inmates in both units are allowed out of their cell for 20 hours per week for both treatment and non-treatment activities.

- Any inmate kept in solitary confinement for a year or more will receive an annual psychiatric evaluation.
- All staff must be trained in suicide prevention and mental health first aid.
- The agreement defines “serious mental illness” as schizophrenia, bipolar disorder, and major depression, and other conditions.
- The prison system in Pennsylvania will be subject to oversight by an independent monitor for two to five years, depending on how quickly it brings its practices in line with the terms of the settlement.

In a DOC press release, Wetzel said, “Unfortunately, prisons and jails have become the *defacto* system responsible for treating the mentally ill. While we continue to step up and face this challenge, we also must continue to call for better and more abundant mental health services in the community. Specialty courts, such as mental health and veterans courts, provide vital treatment services where they should be delivered — in the communities — and they divert such individuals from entering our system in the first place.”

Robert W. Meek, DRN’s lead counsel, said in a recent press release, “This settlement has teeth. A monitor designated by DRNPA [DRN of Pennsylvania] will accurately measure compliance and report on whether the state is fully and effectively implementing the historic reforms announced today. DRNPA stands ready to ensure that the rights of mentally disabled prisoners will continue to be protected.”

There are approximately 8,000 incarcerated individuals diagnosed with severe mental illness in Pennsylvania’s state prisons.

DRN is a federally-mandated organization that advocates for the civil rights of individuals with disabilities. For more information about DRNPA, visit [www.drnpa.org/](http://www.drnpa.org/).

**“If the Commonwealth of Pennsylvania is going to take the irrevocable step of executing a human being, its capital sentencing system must be infallible. Pennsylvania’s system is riddled with flaws, making it error prone, expensive, and anything but infallible.”**

**—Governor Tom Wolf, Memorandum, February 13, 2015**

**Change, continued from page 9**

§3106 on that basis. See: *Wiegand V. Wiegand* 461 Pa. 482, 337 A.2d 256 (1975) (Superior Court may not consider constitutional issues not raised by the parties). Accordingly, the trial court properly relied on §3106 in permitting the uncorroborated testimony on the victim to support the verdict.”

The constitutionality of the statutes §3106 was not raised nor challenged, but is being upheld as being constitutional by *Com. V. Smith*? This just doesn't seem right, but it is being used today to sustain verdicts where there is no evidence of a crime ever being committed!

DNA is now wholly accepted by all courts in the land. The text of §3106: “The testimony of a complainant need not be corroborated in prosecutions under this chapter,” is no longer necessary; it should be stricken. Crimes under this chapter should now be determined by the same standard as any other crime, thus eliminating the “unconstitutional” factor.

The headlines are full of stories of heinous crimes of sexual assault, of county prosecutors, investigative reporters, and media commentators who fail to conduct full, fair, and impartial investigations to ensure that all sides are heard before rushing to judgment, defaming and accusing individuals of crimes they never committed. We need to learn from the mistakes of the past — the Duke lacrosse team and the UVA fraternity incidents, to name a few. We all want to protect women, but not at the expense of false allegations and unconstitutional laws ripe for abuse. The main problem with §3106 is the potential for abuse by disaffected spouses and/or angry, jealous, vengeful, vindictive individuals looking to harm, retaliate, or eliminate another.

Men suffer draconian penalties for sexually-based crimes. Accusers who make false allegations rarely face charges for their wrong-doing. Despite a host of chargeable crimes, making a false police report, obstruction of justice, false arrest, falsification to authorities, perjury, false imprisonment... just to name a few. Prosecutions rarely, if ever, are pursued against persons who make such false allegations. Because there is no perceived penalty for making such an allegation against another individual, the accused is either wrongfully convicted or left trying to put his life back together after being publicly humiliated, losing his livelihood, family, and friends.

Prompt reporting and DNA collection is the best way to serve all interested parties. Those who would commit crimes against women are justly penalized and our criminal justice system works much better when it isn't incarcerating innocent men for crimes they did not commit.

The time has come to update our laws and protect all the citizens of this commonwealth; §3106 was meant to protect, but it's potential for abuse, harm and rehabilitation have become evident. We can do better.

**Parole, continued from page 6**

to have no answer for them before you sit down. You have to take a moment to respond to their question. This way you show them that you are being truthful. “The truth shall set you free,” or so the saying goes.

When it comes to parole, no one really know what will set you free. I have witnessed people performing all that are expected of them regarding therapeutic programs, education, vocational training, and work/block reports. Some have even done extra. All this in the attempt to achieve the goal of parole. Yet in the end, they are given a denial with some kind of made-up reason. Huh? How can someone who gains the support of the institution not show an interest in bettering themselves? Why has nothing been done to take the power of parole away from the parole board and give it to the institutions instead? It's just something for folks to consider for the future.

**Too Soon, continued from page 7**

Muslims and non-Muslims alike always had something good to say about her. Her soul was gentle, with a glow. She dedicated countless hours, weeks, and years of service to our Muslim community.

She constantly kept on me about my anger issues and finding my true passion, skills, talent, and purpose for life. I owe a lot to her that I could never give back, and now, I can't even thank her in person. but I'll thank her with my heart and with my actions.

Her shoes are too big for me to fill, but I'll do my best to carry on her legacy.

I can always think of her and find something to smile about. I remember all the tough times she walked me through and I know now looking back that she was truly a blessing in my life. I will always feel like she was my angel, gone too soon.

*Editor's note: Renee Najah Thomas passed away on January 2, 2015*

**Sloane, continued from page 8**

motions entitled “Motion to Confirm Defendant is not Required to Register under SORNA.” Another suggestion is to file a “Petition to Enforce a Plea Agreement” if the facts of your case support such a claim. Other attorneys have obtained relief for their clients by filing “Petitions for Writ of Habeas Corpus/Coram Nobis Declaring SORNA Inapplicable.” Regardless of the title of the petition or motion that is filed in your case, should you be successful, the order signed by the court enjoining registration must also be distributed to the Megan's Law section of PSP to remove you from the website.

**Juvenile Lifers, continued from page 4**

use. Law clinics inside most facilities are being run by inmates who are definitely talented enough to get the ball rolling. SCI Graterford, Dallas, Huntingdon, Rockview, Greene, Forest, and Fayette — just to name a few — have strong inmates who have some beautiful legal minds. And don't forget all the different prison outreach organizations that are at our disposal. If every last one of Pennsylvania's juvenile lifers were to make a \$100 cash contribution to an established legal defense fund, we would have \$50,000 to give a well-respected attorney to litigate on our behalf. I think most inmates are spending their money on unnecessary commissary items. Why shouldn't anyone serving a juvenile life sentence without the possibility of parole be interested in contributing financially to their own legal defense?

SCI Graterford really does have a lot of outstanding resources for inmates who are challenging their convictions. In fact, Graterford probably has the best jailhouse lawyer in the entire state. I mention this because for the life of me, I don't understand why those guys down there didn't think of this first. Law professors, local politicians, and lawyers all are making frequent visits to Graterford to see inmates. Normally those guys down would be out in front on groundbreaking legal issues, especially since so many would benefit from a class action litigation on behalf of juvenile lifers.

## Inmates in PA Prisons

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**Hospice, continued from page 1**

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**Change, continued from page 12**

committed to your career as a nurse (which is grim and grimy), as you strive to hold the title of a worthy and beloved and cherished wife. If ever I forget the woman you are; being the man I am — all cool and tranquil. A sweet and caring daughter to your mother, even when family history justifies you acting otherwise. I see who you are. I feel what you are and desire to be. I hear the words you leave out. I taste the nurturing ways o' you. I love you now as I will later. I feel your smiles and your frowns. When it looks like I lost some memory of who you've been and are to me, please forgive me, if I ever forget. By no means do I intend to.

**SCI Phoenix, continued from page 7**

ers parole eligibility would solve much of the state's fiscal problems. According to DOC statistics, the average age in Graterford is 40 years old, which means there are a lot of men age 55 and up to balance out to 40. Simply do the math.

So in answer to Ms. Bellwoar's question and call, I've touched on a variety of subjects. I don't presume to speak for all, but I will say there is not much in the way of argument to the contrary.

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**Criminal Prosecutors, continued from page 6**

put in place by our own judicial system, such as the “Anti-terrorism and Effective Death Penalty Act of 1996 (AEDPA).” In a recent essay written by law professor Ms. Ritter, she stated: “In this essay I argue that it is the perfect time to reformulate *habeas* law. Because of AEDPA, there is a grave risk that individuals wrongfully convicted in state courts — the Rubin Carters of today — have little hope for meaningful review by a federal court.”

Professor Ritter went on to say, “Many aspects of *habeas corpus* law changed when the Anti-terrorism and Effective Death Penalty Act (AEDPA) was signed into law by President Clinton in 1996. One of, if not the most significant change, was the elimination of *de novo* review. Today, federal courts must give a measure of deference to the state court’s resolution of federal issues. Fearing the difficulties of retrials, which often occur many years after a crime was committed, state’s rights champions in congress pushed AEDPA through, partly due to concerns that federal judges were too eager to upset a state court’s judgment.”

As an innocent prisoner, I suffered from AEDPA. I spent 16.5 years imprisoned on a natural life sentence before the Federal Third Circuit Court of Appeals vacated my sentence on the grounds of insufficient evidence, which is equivalent to a not guilty verdict barring retrial. Six months after my release, the U.S. Supreme Court reinstated my conviction because the Federal Court did not give deference to the jury. I was ordered to return to a life sentence for a crime for which I’m innocent. Now I’m in my 19th year, and I’ve discovered that my trial prosecutor withheld evidence of my innocence for my whole 19 years of incarceration. Is it safe to say I was prosecuted by a criminal?

**DOJ Who?, continued from page 6**

illness, but not as severe as those coded as “D”] are stuck in prisons that lack the insight or capability to deal with any forms of mental health issues. For example, the new policy clearly states, “The committee shall select officers who have demonstrated ongoing interest in and effective management skills working with mentally ill inmates. In addition, all RTU staff shall receive training on recover model concepts, behavior modification, conflict intervention, and managing the intellectually impaired.”

Here at Frackville, it is common practice to disregard written policy and initiate the “buddy system.” The buddy system is when staff members disregard rules and regulations simply to help out a fellow staff member. Most of the time it’s when a staff member higher up on the chain of command helps out a staff member beneath him. For example, even with the policy being clear as day about which officers are allowed to work the residential treatment unit, the officers who have the training that work well with us, who we have been dealing with for years, get moved to other units for no reason. The staff who lack the training, the staff who cause trouble, and the staff who think mental illness is a joke — they are the ones who get placed on this unit! Now you have special needs inmates in the RHU suicide prevention cells who are receiving numerous misconducts for bogus acts of so-called infractions! When I voice my concerns, I get threats of losing my job, being forced to take a cellmate, losing activities, or being forced to move to a general population block.

I say it again, “DOJ, Who?” That whole investigation was just to shut the public up, nothing more, nothing less! The Department of Justice should be renamed the Department of Jokes!

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**Governor Wolf, continued from page 20**

Pennsylvania joined the prison expansion boom, now referred to as mass incarceration, about three decades ago.

Mandatory sentences and the war on drugs were major factors in the increased use of prisons to address social ills.

Mental illness, drug addiction, and alcoholism were moved from public health concerns to criminal matters. As Attorney General Eric Holder recently observed, “Mass Incarceration doesn’t work and is no longer affordable.”

This is not a Republican or Democratic idea. Conservative columnist George Will also recently observed;

“Over-criminalization has become a national plague. And when more and more behaviors are criminalized, there are more and more occasions for police, who embody the state’s monopoly on legitimate violence, and who fully participate in humanity’s flaws, to make mistakes.”

“The scandal of mass incarceration is partly produced by the frivolity of the political class, which uses the multiplication of criminal offenses as a form of moral exhibitionism,” he wrote.

Pennsylvania Senate Judiciary Committee Chairman Stewart Greenleaf (R-Montgomery), has led the movement to rein in mass incarceration in the state.

He has offered several legislative initiatives on prison reform. Unfortunately, all were compromised during the legislative process and failed to deliver the promised intent.

A tough-on-crime attitude still prevails in Harrisburg, and several amendments adopted weakened the results.

The most recent effort, the Justice Reinvestment Act signed into law by Governor Corbett in October 2012 failed to deliver the population reduction of 600 per year as advertised.

Since its passage over two years ago, the DOC population has been reduced by only 336 inmates — a fraction of the thousands of eligible men and women incarcerated across Pennsylvania. Earlier efforts only stemmed the tide of growth and did not reduce prison populations.

Even the conservative Commonwealth Foundation is on board for reducing mass incarceration:

“The Commonwealth Foundation has long been part of a trans partisan coalition for corrections reform inspired by former Democratic Gov. George M. Leader, and we continue to stand with Gov. Corbett, Sec. Wetzel, and the unanimous consent of the General Assembly in their efforts to provide criminal justice reform that reduces costs to taxpayers and reduces crime,” the group wrote

on its website.

Politics makes strange bedfellows: the American Civil Liberties Union of Pennsylvania (ACLU-PA) has also voiced concerns about out-of-control corrections spending: “This is sensible legislation that balances community safety and addresses the needs of inmates...Warehousing people simply doesn’t work and costs the taxpayers millions of dollars,” says ACLU-PA. Legislative Director Andy Hoover.

The Pennsylvania Prison Society, the nation’s oldest prison reform organization, wholeheartedly joins in the call for reduced corrections spending and a reexamination of who we are incarcerating and why.

The Pennsylvania Intuitional Law Project, the legal aid provider to over 100,000 institutionalized persons also joins this effort.

As dollars are limited, deficits abound and new taxes are difficult to swallow, the DOC budget offers Wolf an opportunity to fulfill his campaign promise and save money through meaningful sentencing reform without negative consequences.

The criteria for eligibility for the Risk Recidivism Reduction Incentive and the Intermediate Punishment Act should be greatly expanded, time off for successful participation should be increased, marijuana should be decriminalized and the prerelease program reestablished and broadened. The commutation and pardons process should be revitalized.

Mandatory sentences should be reexamined with safety valves installed that return sentencing discretion to the judiciary where it belongs. These reforms will save money that can be invested in education — a key factor in reducing recidivism and promoting public safety.

This is a win-win for the world and the taxpayers of Pennsylvania. Sensible prison reform will allow the new governor to fulfill his mandate and benefit the Commonwealth.

“Do not be too eager to deal out death in judgment. For even the very wise cannot see all ends.”

— J.R.R. Tolkien,  
*The Fellowship of the Ring*

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## **SAVE PENNSYLVANIA'S MONEY BY TRIMMING PRISON COSTS**

*by Angus Love and Ann Schwartzman*

*Editor's note: This op-ed appeared in the The Patriot-News (Harrisburg) on January 13, 2015, before Governor Wolf's inauguration.*

The great French novelist, Victor Hugo, once observed that "to open a school is to close a prison."

Governor-elect Tom Wolf's campaign promised to replace the funding cut in education by Governor Tom Corbett. He should heed Hugo's words in his quest for more school funding and balancing a budget with a predicted \$2 billion deficit.

The Pennsylvania Department of Corrections (DOC) has been the single largest growth area of the Commonwealth budget for many years, perhaps decades.

It is time to rein it in, as other states and the country have done without compromising public safety. It is one area where a bi-partisan consensus can be reached and money can be saved.

Since 1980, the DOC's budget has grown by over 1000 percent from \$94 million to more than \$2 billion.

The population has also grown by more than 600 percent, from 8,000 to over 54,000 inmates, and the number of prisons has grown from nine institutions to 28 institutions.

Crime rates have remained fairly stable during this period of growth. Homicides have actually decreased. New York and Texas have reduced their prison populations, closed prisons and seen the crime rates drop.

The country as a whole has seen a drop in prison populations for three consecutive years with no spike in crime. It's time for Pennsylvania to give it a try.

**(see Governor Wolf, continued on page 19)**