

MARYLAND CURE

Maryland CURE
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Maryland State Commission on Criminal Sentencing Policy

Annual Public Comments Hearing Dec 13, 2011
Testimony by Edward Sabin

Two years ago I saw a PBS Frontline program, *When Kids Get Life*, which had a large impact on me. It tells the stories of five juveniles serving life sentences in the U.S. at least one or two of whom were convicted of **felony murder**. Prior to this I had never heard of this charge. I assumed that first degree homicide generally meant premeditated murder where the prosecution had to show intent. Not so. With felony murder, it is not necessary to prove intent nor even that the accused killed anyone—only that the accused was involved in a felony and that someone died at the scene. This is obviously a much easier case for prosecutors to prove.

The most egregious case of felony murder I ever heard of was written up in the New York Times on Dec. 4, 2007. Ryan J. Holle was convicted in 2004 in Florida of first-degree murder for lending his Chevrolet Metro to a friend, who used the car to drive others to a house in order to commit a burglary, during which a murder was committed. Holle was offered a plea deal by the prosecutor but unwisely turned it down. He is now serving a sentence of life without parole at the Wakulla Correctional Institute.

In another Florida case a youth is facing a 50 year sentence. William Murphy and friends broke into a house through a window. The homeowner shot and killed one youth and wounded Murphy. Murphy

Cost of Incarceration

The Vera Institute of Justice has reported that among the 40 states that responded to a survey, the total fiscal year 2010 taxpayer cost of prisons was \$38.8 billion -- an annual average taxpayer of \$31,166 per inmate. "As states continue to deal with serious budget constraints, it's critical that policy makers, corrections officials, taxpayers, and legislators know exactly what their

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recovered and is charged with the death of his accomplice killed by the home owner. The charge felony murder grew out of English common law but has since been repealed as outmoded by Great Britain, Canada, and several states in the United States (not including Maryland). The Frontline documentary stated that an estimated 26% of the 2,574 juveniles serving life sentences without parole in this country were convicted under the felony murder rule. According to the 2009 Frontline program, 13 juveniles are serving life sentences without parole in Maryland.

Just as the US Defense Department and State Department should be on guard against "mission creep" in dealing with overseas commitments; so too state agencies should be on guard against "sentence creep." However much the felony murder rule may be appropriate in some cases, it's easy to see how this rule can be misapplied and distorted. A life sentence without possibility of parole, originally intended to protect society from the "worst of the worst," suddenly

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To All Maryland CURE Members

To reduce costs and conserve resources, MD CURE would like to send our newsletters via email to as many members as possible.

If you have received this newsletter via US Postal Service, then we don't have your e-mail address on record. For those that do have an email address, please send an e-mail to marylandcure@comcast.net with your name and 'Newsletter' in the subject line and we will update our records.

Maryland State Commission... From page 1

becomes a handy short cut charge to obtain a plea deal or make a conviction in a difficult case with little relation as to actual culpability for a crime

Given sufficient staff resources, it would be instructive for the Commission on Criminal Sentencing Policy to research the number of inmates in Maryland correctional institutions serving life sentences due to convictions under the felony murder rule. Such information would be useful to help abolish the rule and reserve our most severe punishment to those actually guilty of the crime.

After hearing Ed's testimony, Senator Lisa Gladden was prompted to introduce legislation which would remove the Governor from the approval process of a lifer convicted of felony murder who had been recommended for parole by the Maryland Parole Commission. A hearing was held in Annapolis, several CURE members testified eloquently, but unfortunately the bill was not voted on.

Maryland CURE members have presented testimony at the annual Maryland State Commission on Criminal Sentencing Annual Public Comments Hearing for several years now. Ed Sabin and others have done much to promote a deeper understanding of prison reformation issues to the Commission members.

CURE Visit at MCI-W

CURE President Lea Green and Rebecca Swope, Director of CURE-Women Incarcerated (a special issue chapter of National CURE) will visit MCI-W Aug 28. Although CURE is involved with two women's groups at MCI-W, Women of Wisdom (WOW) and I-WISH (Incarcerated Women Inside Seeking to Help), all MCI-W residents have been welcomed to this presentation.

Gail Evans, a Maryland CURE member who already contributes much of her time to MCI-W will be attending and Val Hymes, Annapolis freelance journalist may be there as well. Delegate Geraldine Valentino-Smith has been asked to attend. Del. Valentino-Smith was one of the sponsors of HB796 Bringing Maryland Families Together Act which would require the Department of Public Safety and Correctional Services to establish a video visitation program so that specified inmates could visit with specified persons via the Internet.

This will be a 'give and take' presentation focusing on legislative topics and learning about issues facing the incarcerated.



Free Overnight Camp Available for Children of Incarcerated aged 7 to 11

Slots are still available for children of incarcerated parents aged 7 to 11 at Camp Amazing Grace at the Episcopal Church Conference Center in Buckeystown, Maryland from August 12 to August 17, 2012. This camp is without cost to guardians or caregivers of the children. Transportation is provided to and from camp from Baltimore City. For more information and an application, contact Ed Sabin at 410-255-7362 or esabin1@comcast.net.

Legislative Updates

HB1147, Inmate Welfare Fund-Telephone Financial Assistance. Sponsored by Del Geraldine Valentino-Smith would require the managing official of each local correctional facility with an inmate welfare fund to direct a portion of the profits of telephone commissions to be used for inmates in need. Currently each facility has the discretion to use these funds in any way they see fit.

SB760/HB796, sponsored by Sen Lisa Gladden establishing a video visitation program in which an inmate can visit with specified people via internet video which organizations may provide. Lea Green testified how important family connections where and stated that Virginia has a video program that is successful.

SB492/SB584, Walter Lomax's Maryland Restorative Justice Initiative (MRJI) has been successful in beginning to get the Maryland Governor out of the business of parole and this year's strategy is to put forward bills that exempt certain groups from requiring the Governor's signature for parole approval. The groups are Life Imprisonment for acts committed while a minor and those with Life Imprisonment as a Felony Murder Accomplice (Felony Murder Rule)

Update: These bills were not successful in this year's session but we believe in Walter Lomax's credo....

"Never give in, Never give up"

Maryland CURE Update

Maryland CURE's new President Lea Green is herself the mother of a lifer and brings a great understanding and dedication to the position. Vivian Penda, our new Vice President is the mother of a murder victim and co-chairs the Board of Maryland Citizens Against State Executions. Under our new leadership, membership has increased and Maryland CURE is taking an exciting direction.

We welcome our many new members!

Cost of Incarceration from page 1

prisons cost," says Vera director Michael Jacobson. "Many states are moving toward reserving incarceration for the most dangerous people and using proven strategies to improve public safety at a lower cost." Options include modifying sentencing and release policies, strengthening strategies to reduce recidivism, and boosting operating efficiencies.

Support From the Pope

Pope Benedict denounced prison overcrowding and called for greater respect for prisoners during his recent visit to Rebibbia Prison in Rome. During his visit, Pope Benedict spoke with several prisoners who described their despair at being kept in overcrowded cells away from their loved ones. Several prisoners wept when they saw the Holy Father and he appeared touched by their welcome.

Geriatric Prisoners

Larry Bratt (excerpted from)

While 55 may not be old by conventional standards, people age faster behind bars than they do on the outside. Studies have shown prisoners in their 50s are on average physiologically 10 or 15 years older than their chronological age.

Reading numerous legal cases against the two leading medical providers for much of the nation's prisons, Correctional Medical Services and PHS Correctional Healthcare (as of June 3, 2011 these two companies merged under the name Corizon), I learned prisoners are third party beneficiaries of the contract between the state and medical provider. This knowledge affords easier access to the courts in filing a claim against the prison system's medical provider for 'deliberate indifference' (mainly a federal court action). Additionally, if a prisoner files a claim in state court it would be for 'medical negligence and malpractice.'

The purpose for filing a medical lawsuit is not to win a financial settlement; it is to have the courts champion your medical claim with the prison medical department and Corizon. Otherwise, all too often a prisoner's serious medical condition will be left untreated.

What to do about Geriatric Prisoners?

Jonathon Turley, a law professor at Georgetown University and founder of the Project for Older Prisoners (POPS), testified at a Senate Subcommittee

on Aging and Long Term Care, in 2003. 'In the last 20 years, the population of older prisoners has grown by 750 percent.' Forecasts show the trend will only accelerate for the near future. At a time when convictions in Maryland and across the country are soaring, it is far less expensive and a much better use of detention space to release prisoners when they pass the 'criminal menopause' age criminologists have defined as the period when one loses interest in criminal activity. The continued incarceration of these aging and dying prisoners, then, clearly does not serve to protect society. That is not healthy for America.

President Jimmy Carter on the Death Penalty

For many reasons, it is time for Georgia and other states to abolish the death penalty. A recent poll showed that 61 percent of Americans would choose a punishment other than the death penalty for murder. Our country is almost alone in our fascination with the death penalty. **Ninety percent** of all executions are carried out in *China, Iran, Saudi Arabia and the United States*. One argument for the death penalty is that it is a strong deterrent to murder and other violent crimes. In fact, evidence shows just the opposite. The homicide rate is at least five times greater in the United States than in any Western European country, all without the death penalty (April 25, 2012)

NDRAN (National Death Row Assistance Network) helps death row prisoners and people facing capital trials

Maryland CURE has made a \$100.00 contribution to help support NDRAN in continuing their valuable work assisting death row prisoners and networking with family, friends, communities and lawyers of prisoners.

The Second Chance Act

The Second Chance Act passed with overwhelming bipartisan support and was signed into law in April 2008. It is a common sense, evidence-based approach to improving outcomes for people returning to communities from prisons and jails. This first-of-its-kind legislation authorizes federal grants to government agencies and nonprofit organizations to provide employment assistance, substance abuse treatment, housing, family-based programming, mentoring, support for victims, and other services that can help reduce recidivism.

President Obama recently released his fiscal year 2013 budget, which included \$80 million for the Second Chance Act. As Congress begins consideration of its funding bills this year, it is critical that they understand the widespread support for Second Chance across the country.

Maryland CURE is a Chapter of CURE, a national grass-roots organization dedicated to reducing crime through reform of the criminal justice system.



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- **Incarceration and Re-entry** -- Multiple publications from the Annie E. Casey Foundation on how to create healing communities <http://www.aecf.org/KnowledgeCenter/SpecialInterestAreas/IncarcerationandReentry.aspx>
- **LawHelp/org** -- helps low and moderate income people find free legal aid programs in their communities, and answers to questions about their legal rights. <http://www.lawhelp.org/>
- **The Legal Aid Bureau, Inc** -- a non-profit law firm that provides free legal services to low-income persons statewide. Only civil cases are handled by the Legal Aid Bureau. Office locations and statewide services are available on the web site.
 - Legal Aid Bureau
500 E. Lexington St.
Baltimore, MD 21202
410-539-5340
410-539-1710 fax
Web Site: www.mdlab.org
- **National Reentry Resource Center** -- The Resource Center, established by the Second Chance Act, provides assistance to the prisoner reentry field. They provide education, training, and technical assistance to states, tribes, territories, local governments, service providers, nonprofit organizations, and corrections agencies working on prisoner reentry. <http://www.nationalreentryresourcecenter.org>

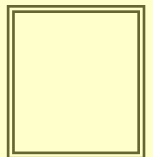
Maryland CURE Meeting Schedule
 July 28 at Central Branch Library Columbia MD
 Oct 27 Central Branch Library Columbia MD

Check website to verify meeting location
www.marylandcure.webs.com

The scale and the brutality of our prisons are the moral scandal of American life. Every day, at least fifty thousand men—a full house at Yankee Stadium—wake in solitary confinement, often in “supermax” prisons or prison wings, in which men are locked in small cells, where they see no one, cannot freely read and write, and are allowed out just once a day for an hour’s solo “exercise.” (Lock yourself in your bathroom and then imagine you have to stay there for the next ten years, and you will have some sense of the experience.)

Quote from New Yorker article, "The Caging of America," 1/30/12

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