

Fall-Winter 2020-2021

Highlights

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New report shows that mass incarceration led to huge increase in national COVID-19 caseloads

The study provides the first estimates of how prisons and jails led to more coronavirus infections, both inside and outside prisons.

Over half a million COVID-19 cases last summer were directly linked to mass incarceration, a new report from the Prison Policy Initiative and Professor Gregory Hooks shows. The study provides the first estimates of how prisons and jails — which are “super spreaders” of the virus — added to COVID-19 caseloads on the county, state, and national levels, including infections of people both inside and outside prisons. “Our findings leave no doubt that locking up millions of people in this country in close quarters has led to mass sickness and death in 2020, both in and outside of prisons,” said Hooks. “This huge growth in COVID-19 cases isn’t the fault of incarcerated people; it’s the fault of tough-on-crime politicians who insist that mass incarceration is necessary to keep us safe.”

In the study, titled *Mass Incarceration, COVID-19, and Community Spread*, Hooks compared the population density of incarcerated people in U.S. counties to the growth in COVID-19 cases in those counties over the summer of 2020. To get a more direct measure of community spread across county lines, he also measured the impact on county caseloads from prison and jail populations held in nearby counties located within the same multi-county economic areas. The findings include:

At the county level: Over the summer of 2020, large prisons and jail populations within non metro counties (i.e. rural areas or those with small cities) directly contributed to higher COVID-19 caseloads in those counties.

At the regional level: COVID-19 caseloads grew *much more quickly* over the summer among counties in greater economic areas containing large prisons and jails.

At the national level: Mass incarceration led to more than *half a million* additional COVID-19 cases nationwide — or about 1 in 8 of all new cases — over the summer, including cases both inside and outside correctional facilities.

The report, written to be accessible to a general audience, includes graphics illustrating the major findings.

Case of prisoner who spent 13 years in solitary settled

Reyes’s was sentenced to 47 years behind bars for murder but his extended time in solitary confinement had more to do with a language barrier than the crime that sent him to prison. Reyes is from El Salvador and has been identified as someone with Limited English Proficiency. According to the ACLU he did not have a viable pathway out of solitary confinement because he cannot read, write or speak English. The settlement of the federal case brought against the Virginia Department of Corrections for the treatment of Reyes will lead to the adoption of a “comprehensive, department-wide policy to provide access to interpretation and translation services for people incarcerated in its facilities.” Following the settlement Reyes will also receive restoration of good-time credits, an interpreter for all hearing and medical visits, a hearing within 6 months to determine if he can move to a lower-level facility closer to family, a monetary reward of \$115,000 to compensate for the time in confinement and at least one year in single-cell housing to help him transition.

Virginia Crime Commission endorses getting rid of all mandatory minimum sentences

The Virginia State Crime Commission has endorsed abolishing all mandatory minimum sentences from the state code. This recommendation will be considered during the General Assembly session beginning on January 13. Mandatory minimums are a legacy of the tough-on-crime 1980s and '90s. There are 224 offenses with mandatory minimum sentences in Virginia's code, most of which deal with driving while intoxicated, drugs, child pornography and weapons violations, according to the commission. Those offenses make up just about 3% of convictions in the past five years. The commission, a bipartisan advisory body, recently voted 9-2 to end mandatory minimums. "I think mandatory minimums skew our system," said Del. Mike Mullin, D-Newport News, an assistant commonwealth's attorney. "We appoint judges to be representative of our community, to be able to reflect the nature of that community, and the wishes of that community." The commission also backed allowing some people serving felony mandatory minimum sentences to petition a judge to reconsider their sentence.

Rigid sentencing has been much discussed in the last few years and is often blamed for the large number of nonviolent offenders who fill Virginia prisons. Opponents of this practice argue they don't deter crime, and haven't eliminated disparities in sentencing. "Behavior I see in court every day, which really troubles me significantly, is prosecutors using mandatory minimums to extort nonmandatory minimum sentences out of people because they have that leverage," said Sen. Scott Surovell, D-Fairfax, a defense attorney. Proponents of using them argue that they reduce crime, eliminate inequities in the system and guarantee a minimum punishment.

Major sentencing reforms rolling out in Fairfax County - .

Steve Descanso ran on a platform of reform in Virginia's largest county and he is busy keeping his promises. "The overall goal here is to build a more fair and just criminal justice system, while also having a system that actually keeps our community safe," said the newly elected Fairfax County Commonwealth's Attorney. Prosecutors in Descanso's office will stop using mandatory minimum sentences in plea deals, and charging people who commit minor offenses with felonies. And that's just the start. "We're going to make sure we treat kids as kids instead of charging them as adults, and we're going to make increased use of alternative dispositions and diversion programs," Descanso said. Probation will be "customized to fit the case of each probationer. "We want to get at the underlying issues that somebody has, tailor a probation length around that and really focus them on getting their issue taken care of and taking the rehabilitative steps. Not keeping them in the system for years and years for no good reason," said Descanso. And as for mandatory minimum sentences, he is requesting legislators approve a statewide ban. "Legislators know how rife our code is with mandatory minimums which are devastating for communities, especially black and brown communities. Descanso recently announced that he will no longer seek cash bail and that he wants the state to abolish cash bail. In this, he is joined by a number of Virginia's reform minded attorneys. Descanso said he is receiving lots of positive feedback from state lawmakers, and he is hoping to see the proposal pass during the current General Assembly session.

A Note About Letters to Virginia CURE

While Virginia CURE cares about your concerns and appreciates being kept informed, we don't have a volunteer staff large enough to reply promptly to all letters received. Please, keep it short and to the point. **Do not send legal papers.** We do not have the capacity to deal with legal issues. Send mail to **P.O. Box 2310, Vienna, VA 22183**

Parole Grant Rates 2020

Month	Regular	Total	Percent	Geriatric	Total	Percent	Dual El	total	percent
Jan	12	187	6	3	48	6			
Feb	28	168	17	4	24	2			
Mar	77	392	20	12	75	2			
Apr	28	139	20	9	47	2			
May	4	104	4	3	40	7			
June	13	145	9	3	85	35			
July	15	77	14	9	142	6			
Aug	23	104	22	7	63	1	0		0
Sept	8	118	7	2	46	4	0		0
Oct	8	123	6	6	59	10	0		0
Nov	6	109	5	4	85	7	2	39	5
Dec	25	108	23	10	76	13	2	44	4

The percentages here are corrected in response to comments from readers. .

Early Release Numbers from VADOC as of 1/22

Virginia DOC Facilities **926**

Institutional Hospitals **2**

State Responsible in Local Jails **497**

Access to Health Care for Inmates Worsened Since Pandemic, Webinar Told

Access to health care for incarcerated individuals has deteriorated as a result of restrictions imposed to prevent the spread of COVID-19 behind bars, according to correctional health experts and prisoner advocates during a recent webinar. Thomas Weber, CEO of [PrimeCare Medical Inc.](#), which provides correctional health services in 80 facilities across five states, said there was a “reluctance” from outside medical specialists to enter prison facilities because of the risk of COVID. “We provide primary care, but if someone needs orthopedic or obstetric help, we rely on community providers to work with us to provide that care,” he said. “And we found out that a number of providers weren’t seeing patients or would require negative (coronavirus) tests before they would see someone.” COVID-era restrictions often bar inmates from going to clinics or sick bay where they might be at risk of exposure. “

Coalition Against Solitary Confinement Meets New Chief of Restricted Housing

Recently, members of the Coalition Against Solitary Confinement had an opportunity to meet Lois Fegan VADOC’s new Chief of Restrictive Housing. Ms Fegan has spent 15 years in corrections and has Bachelor’s and Master’s degrees in criminal justice. She has worked on statistical analysis in substance abuse and criminal justice for Baltimore County and in 2007 she became a research assistant for the Virginia Department of Corrections. She eventually chose to gain field experience and became a counselor at Deep Meadow Correctional Center. Subsequently, she served as Operations Manager at Powhatan Correctional Center. She also worked as an environmental/safety compliance officer at a women’s facility. When asked what she brings to her role that is unique, she pointed to her diverse background, which has given her a “big picture” view. Her experience has included working with both internal and external stakeholders, other states and countries, and monitoring global and domestic trends. Several issues relevant to the use of solitary were also discussed, such as oversight of investigations and the impression outsiders often have that investigations amount to rubber stamps. VADOC responded that they understood this concern, but the Special Investigations Unit (SIU) is no different from Internal Affairs staffs within metropolitan police departments. The SIU is a serious law enforcement unit and is not influenced by anyone. They acknowledged that how the offender is notified of the outcome of an investigation needs attention, and the Department is trying to address this. Repetitive complaints against some officers were brought up. The SIU has a new automated system the group was told, that enables them to track investigations and individuals. This was implemented in late 2019 and can help identify officers who have a large number of complaints against them.

Opinion

Abolish Precrime

By Galen Baughman

When I was three weeks away from finishing my 6.5 year prison sentence in 2009, I received a notice that the Virginia Attorney General had canceled my release — that I would be held indefinitely after the completion of my sentence accused of imaginary future crime. Virginia is one of 20 states and the federal government with controversial laws to prevent release by confining the person under civil law after they have finished their criminal sentence. But hopefully not for much longer.

On Monday, January 11, 2021 Senator Joseph Morrissey (D–Richmond) has introduced legislation (SB 1244) to repeal Virginia’s so-called “Civil Commitment of Sexually Violent Predators” Act (SVPA). Del. Patrick Hope (D–Arlington), chairman of the House Judiciary Committee, and Chief Co-Patron of the repeal bill wrote an op-ed about these dystopian systems in September 2019. If the bill passes the General Assembly and is signed by Gov. Northam, Virginia would become the first state to abolish its system of pre-crime preventative detention in 31 years .

Imagine getting to your release date and discovering that the state was betraying your guilty plea bargain and effectively extending your sentence. A psychologist claims to know what you are “so likely” to do in the future — in my case someone who didn’t even interview me. These [paid] experts are beholden to the state and perform a para-prosecutorial function. They “diagnose” men with fraudulent, famously pretextual “disorders” — including conditions not included in the DSM-5, and categorically rejected by the medical community. In 1999, after a five-year study ..., the American Psychiatric Association issued a Task Force report strongly opposing these laws as a “misuse of psychiatry” because lawmakers were trying to disguise a prison by hiding punishment behind the pretense of “treatment.”

As of March 1, 2020, Virginia had released 483 persons into the community who were labeled under this law as “so likely to commit sexually violent offenses that he constitutes a menace to the health and safety of others.” So how many of them *actually* committed new acts of sexual violence? According to a subpoena response by Virginia’s Department of Behavioral Health and Developmental Services (DBHDS), only 2 persons out of 483 were convicted of a new “sexually violent offense” — a recidivism rate of 0.4 percent. In other words, the Attorney General was wrong 99.6 percent of the time.

There is no good way to prosecute people for what they *might* do in the future. It is anathema to due process and in practice these prosecutions are a perverse modern witch trial where the only “evidence” is the crystal ball gazing of the expert bought and paid for by the state. Virginia just invested \$110 million to expand Virginia’s shadow prison by 258 beds — that’s \$426,000 per bed. And the state admits that the new expansion will be at capacity again (filled) in just 2 years. The Virginia state budget has been ravaged by the pandemic, with a reported billion dollar shortfall. We can’t afford this failed experiment — not in our budget, or in terms of the human cost to lives lost languishing at Virginia’s “not-a-prison” prison. Help us make Virginia the 31st state to say no to pre-crime preventative detention. Call your state senator and state delegate to tell them to vote YES on SB 1244. No one in Virginia should be held behind bars after the completion of their sentence. Ask your loved ones to call their lawmakers and say “Release on Release Date!”

Bills gone into effect July 1

SB 793 Parole; exception to limitation on the application of parole statutes Introduced by: **Jennifer L. McClellan** . Provides that an incarcerated person is eligible for parole if (i) such person was sentenced by a jury prior to the date of the Supreme Court of Virginia decision in *Fishback v. Commonwealth*, 260 Va. 104 (June 9, 2000), in which the Court held that a jury should be instructed on the fact that parole has been abolished, for a noncapital felony committed on or after the abolition of parole went into effect (on January 1, 1995) and (ii) the jury was not instructed on the abolition of parole in the Commonwealth.

SB 103 Juvenile 1020 Offenders; Parole. Introduced by: **David W. Marsden** . Provides that any person sentenced to a term of life imprisonment for a single felony offense or multiple felony offenses committed while that person was a juvenile and who has served at least 20 years of such sentence, and any person who has active sentences that total more than 20 years for a single felony offense or multiple felony offenses committed while that person was a juvenile and who has served at least 20 years of such sentences, shall be eligible for parole

SB 1 Driver's license; suspension for nonpayment of fines or costs . Introduced by: **William M. Stanley, Jr.** Repeals the requirement that the driver's license of a person convicted of any violation of the law who fails or refuses to provide for immediate payment of fines or costs be suspended

SB 124 Food stamps and TANF; eligibility, drug-related felonies. Introduced by: **Mamie E. Locke** Provides that a person who is otherwise eligible to receive food stamp benefits shall not be denied such assistance solely because he has been convicted of a drug-related felony.

133 Criminal cases; deferred disposition. Introduced by: **Richard H. Stuart** | Allows a court to defer and dismiss a criminal case where the defendant has been diagnosed with autism or an intellectual disability

HB 972 Marijuana; possession and consumption, penalty. Introduced by: **Charniele L. Herring** | Decriminalizes simple marijuana possession and provides a civil penalty of no more than \$50

HB 277 Court fines and costs; community work in lieu of payment during imprisonment . Introduced by: **Marcia S. "Cia" Price** . Allows courts to provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work during imprisonment.

HB 278 Home/electronic incarceration program; payment to defray costs. introduced by: **Patrick A. Hope** | :. Changes from mandatory to optional the current requirement that the director or administrator of a home/electronic incarceration program charge an offender or accused a fee for participating in the program in order to pay for the cost of home/electronic incarceration equipment

SB 215 Inmates; review of death in local correctional facilities, report. **David R. Suetterlein** . Provides that the Board of Corrections shall publish, on its website, an annual report summarizing the jail death reviews conducted by the Board within that year. The bill provides that such report shall include any trends or similarities among the deaths of inmates in local correctional facilities and present recommendations on policy changes to reduce the number of deaths in local correctional facilities.

SB 1023 Correctional facilities, state; visitation and search policies for visitors. Introduced by: **Mark J. Peake** Sets visitation and search policies for visitors to local and state correctional facilities, including the circumstances under which visits may include or exclude personal contact. Searches of the person are not allowed on persons under 18 years of age and visitors will not be barred from future visits if they (i) stop a search prior to the discovery of contraband or (ii) refuse to be searched

HB 1284 Correctional facilities; use of isolated confinement. Introduced by: **Patrick A. Hope** Directs the Board of Corrections to, in consultation with a stakeholder work group, conduct a review of the standards and requirements governing, and the application and use of isolated confinement in, local correctional facilities.

CORRECTION: We apologize for presenting misinformation in the last edition of insideout. The omnibus bill carrying Pell grants was not passed but waited in committee. There is general optimism that the bill will pass We will publish an update in the next newsletter.

Bills Introduced 2021 General Assembly Session

HB 1761 Parole; investigation prior to release John J. McGuire, III Provides that the Parole Board shall contact the victim prior to making any decision to release any inmate on discretionary parole.

HB 1777 Serious or Habitual Offender Comprehensive Action Program; def. of serious juvenile offender, etc.: Jeion A. Ward . Changes the definition of a serious or habitual juvenile offender for the purposes of the Serious or Habitual Offender Comprehensive Action Program to a minor who has been adjudicated delinquent or convicted of any offense that would be a felony if committed by an adult or two offenses that would be Class 1 misdemeanors if committed by an adult.

HB 1779 Death penalty; abolition of current penalty: Lee J. Carter | Abolition of the death penalty. Abolishes the death penalty, including for those persons currently under a death sentence.

HB 1815 Marijuana; legalization of cultivation, manufacture, sale, possession, and testing, penalties.: Steve E. Heretick Establishes a regulatory scheme for the regulation of marijuana cultivation facilities....,

HB 2010 Earned sentence credits; revocation of suspended sentence. Jeffrey L. Campbell Clarifies that sentences for certain crimes that as of July 1, 2021, will be subject to a maximum of 4.5 earned sentence credits for each 30 days served include a suspended sentence that is revoked for any such crime.

HB 2055 Child support obligations; party's incarceration not deemed voluntary unemployment/underemployment.: Don L. Scott Provides that a party's incarceration for 180 or more consecutive days shall not ordinarily be deemed voluntary unemployment or underemployment for the purposes of calculating child support and imputing income for such calculation. The bill further provides that a party's incarceration for 180 or more days shall be a material change of circumstances upon which a modification of a child support order may be based.

HB 2113 Criminal records; establishes a process for automatic expungement, etc.. Charniele L. Herring | . Establishes a process for the automatic expungement, defined in the bill, of criminal records for certain convictions, deferred dispositions, and acquittals and for offenses that have been nolle prossed etce

SB 1104 Parole; notice and certification, monthly reports : Mark D. Obenshain . Provides that the Department of Corrections shall release a prisoner no sooner than 21 business days after the date of notification by the Virginia Parole Board (the Board) to the appropriate attorney for the Commonwealth of the decision to grant parole. . . The bill requires that the monthly reports issued by the Board regarding actions taken on the parole of prisoners (i) be published on the last day of the month and (ii) include the offenses of which prisoners considered for parole were convicted, the jurisdictions in which such offenses were committed, and the amount of time served by such prisoners.

SB 1125 Parole Board; notice of parole of prisoner to victim: Mark D. Obenshain Requires the Parole Board, within seven days of making any decision regarding the parole of a prisoner, to provide written or electronic notice of such decision to the victim of the crime for which the prisoner was incarcerated, unless the victim has submitted a written request to forgo such notice.

SB 1301 Correctional facilities; use of isolated confinement.: Joseph D. Morrissey . Prohibits the use of isolated confinement in state correctional facilities and juvenile correctional centers. Isolated confinement is defined in the bill as confinement of a prisoner or juvenile to a cell, alone or with another prisoner or juvenile, for 20 hours or more per day for an adult or for 17 hours or more per day for a juvenile, other than for the purpose of providing medical or mental health treatment. The bill provides for exceptions for when isolated confinement may be permitted in state correctional facilities and juvenile correctional centers. The bill has a delayed effective date of July 1, 2022.

SB 1244 Civil commitment of sexually violent predators. Joseph D. Morrissey Repeals sections of the Code of Virginia authorizing civil commitment of sexually violent predators

SB 1179 Corrections Private Management Act; name change; private management prohibited Adam P. Ebbin. Removes the authority of the Director of the Department of Corrections, pursuant to the Corrections Private Management Act (the Act), to enter into contracts with prison contractors for the operation of prison facilities, including management, custody of inmates, and provision of security.

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**January is our
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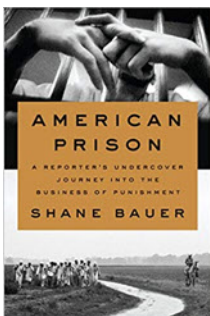
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Book Reviews:

American Prison: A Reporter's Undercover Journey Into the Business of Punishment

Shane Bauer



This investigative reporter spent four months as a guard at a private prison in Louisiana. It reprises his gripping 2016 Mother Jones article and more. He digs into the history of Correction Company of America, now rebranded as CoreCivic, an enterprise conceived during small talk at a Republican presidential fundraiser in the 1980s. Now it is a \$1.8 billion company deriving 25 percent of its revenue from immigrant detention. He carried a spy pen and wore a spy watch to record his time inside. *A New York Times Book Review* 10 Best Books of 2018 * One of President Barack Obama's favorite books of 2018 * Winner of the 2019 J. Anthony Lukas Book Prize * Winner of the Helen Bernstein Book Award for Excellence in Journalism * Winner of the 2019 RFK Book and Journalism Award * *A New York Times* Notable Book

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e-mail _____ prisoner birthday _____

phone day () evening ()

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Involvement: prisoner family friend professional volunteer

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Virginia CURE invites prisoners to submit original articles, poetry and artwork for consideration for publication. Virginia CURE reserves the right to edit submissions accepted for publication.

Virginia CURE will not return submissions unless prior arrangements are made. Send submissions to: Newsletter Editor, Virginia CURE, P.O. Box 2310, Vienna, Virginia 22183

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