Spring 20016

highlights

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Directors Corner

Solitary Confinement week in Northern Virginia!

Solitary Confinement is commanding much attention lately. Along with the new HBO documentary on Red Onion, (see page 6) viewed at the AFI Film Festival in DC, the National Religious Campaign Against Torture (NCRAT) presented a film, "Breaking Down the Box" which was shown on June 23rd in Arlington. Del. Patrick Hope led a Q

& A session following the film. Then, there was the play "Mariposa and the Saint" created from letters between a prisoner in solitary and a friend during a 15 months period "Mariposa" spent in solitary, which was presented June 24 in DC. As acted by the prisoner's friend, the play was a powerful indictment against the use of solitary confinement. VA CURE is currently in a coalition seeking to affect change in the use of solitary confinement. Hopefully, we can say more in the next newsletter!

Parole Review Commission Member Reports

Recommendations for Reform of Parole Board

The Commission included a wide range of members from a variety of fields, as well as four state legislators and a number of executive officials...The Commission's recommendations emphasized a number of recognized principles for criminal justice reform, and the need to review data from other states on these issues.. The Commission recommended the following reforms to the current policies and procedures of the Parole Board ... (The Parole Board Chair disagreed with a number of these.)

- for those parole eligible inmates who have already served 20 years, or the time set by the current sentencing guidelines for the same offense, requiring a more detailed explanation of why parole is being denied.
- requiring personal interviews and group deliberation by at least three Board members, for parole candidates with no recent record of major institutional infractions
- validating and standardizing risk assessment tools and ensuring that they include appropriate consideration of post-incarceration factors (such as age), and providing transparent access by parole candidates to the application of these tools in their case
- providing greater transparency of Parole Board policies and procedures, through reform of the Board's current exemption from the Freedom of Information
 Act. (Virginia's Freedom of Information Advisory
 Council is currently reviewing all such exemptions, and it is hoped that they will include the Board in their study due for completion later this year.)

Many of these recommendations would require legislative changes to the current law. Others could be adopted by the Governor. The next steps are not clear. There was much support

by Commission members for extending its tenure so as to address ways these recommendations could be implemented, but the Governor has not addressed that suggestion. Virginia CURE and others hope to work with the Governor and key members of the General Assembly to urge them to follow up in implementing the recommendations.

Bill Richardson

Parole Review Commission Tackles Three Strikes Issue

The Sub Committee on the Appropriate Classification of Offenses produced many recommendations, some of which addressed the issue of Three Strikes prisoners. One recommendation sought to determine whether and to what extent current inmates, who otherwise would be parole eligible have been improperly designated as parole ineligible under the Virginia Three Strikes law (in particular, by the failure to apply the common act, transaction, or scheme exception).

The Subcommittee also saw approval of a study by the Virginia State Crime Commission to assess the circumstances surrounding the declaration of ineligibility on the current population of inmates declared ineligible for parole under the Three Strikes law. As of this article, it appears that nothing has been done to review these cases.

In addition, the subcommittee felt that once these cases were reviewed and if some were found to be categorized improperly that further legislative action may be required to ensure that only those offenders who warrant ineligibility under the Three Strikes Law remain ineligible for parole.

What we need now is Action with a capital "A" to implement the recommendation and review the cases. It's past time to move on!

Sandra Brandt

Legislative Highlights 2016

This session featured multiple bills for some issues such as expungement, ban the box and reentry issues. Almost all failed, but they may be harbingers of the future if they continue to be introduced. Their introduction indicates a growing awareness of the problems faced by returning citizens. Many bills addressed issues that were of concern to the Parole Review Commission. We hope to see more next year in response to the recommendations.. For a complete list of tracked bills, write to VA CURE at the address on the back of this newsletter..

- HB 74 Drug offenses, misdemeanor; expungement of records. <u>Jeffrey L. Campbell</u> (R-6) Allows a person convicted of a first offense of possession of controlled substances or marijuana who was not afforded the opportunity to be placed on probation in lieu of a conviction to petition to have his conviction expunged after a 10-year period has expired following the conviction. Matching bills include: SB 22 <u>Ryan T. McDougle</u> (R-4), HB 112 <u>L. Scott Lingamfelter</u> (R-31), HB708, <u>Mark Simons</u>, (D-53), SB 194 Louise Lucas, (D-18) TABLED
- HB 1031 Parole Board; parole review; required release. Mark D. Sickles D(43) Requires the Parole Board to release any person eligible and under consideration for and seeking parole for whom the Virginia Criminal Sentencing Commission has already determined, or who otherwise demonstrates, that his time served has exceeded the midpoint of the sentencing guidelines. The bill authorizes the Board to defer such release if there is substantial risk of serious criminal conduct or an inadequate release plan, in which case the Board is required to issue a reasoned decision explaining the basis for such deferral TABLED
- SB 23 Grand larceny; increases threshold amount of money taken to \$1000, etc <u>Bryce E. Reeves:</u> (R-17) Increases from \$200 to \$1,000 the threshold amount of money taken or value of goods or chattel taken at which the crime rises from petit larceny to grand larceny. The bill increases the threshold by the same amount for the classification of certain property crimes Companion Bills incorporated: HB 396 Steve E. Heretik (D-79), SB177 Scott Surovell (D-36) SB 235 <u>J. Chapman Petersen</u> (D-34), SB310 <u>A. Donald McEachin</u> (D-20) LEFT IN HOUSE
- SB 335 Public employment; inquiries by state agencies and localities regarding criminal convictions, charges and arrests <u>Rosalyn</u> <u>R. Dance</u> (D-16) Prohibits state agencies from including on any employment application a question inquiring whether the prospective employee has ever been arrested or charged with, or convicted of, any crime, subject to certain exceptions. **LEFT IN HOUSE**
- **HB 390 Parole; limitation on the application of parole statutes.** <u>Joseph C. Lindsey</u> (**D-90**) Provides that a person is entitled to parole who 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 prior to the time that the abolition of parole went into effect (January 1, 1995). **TABLED**
- HB 428 Prisoner's spouse or children; support payments by county or city. Patrick A. Hope (D-47). Designates the Department of Social Services as the entity to which a county or city within the boundaries of which a prisoner is put to work on a workhouse, city farm, or work squad shall pay funds for the support of the prisoner's spouse or children. The bill increases the minimum amount that the county or city shall pay from \$5 to \$20 dollars and increases the maximum amount that the county or city shall pay from \$25 to \$40 dollars for each week in the discretion of the court during any part of which any work is performed by the prisoner PASSED HOUSE AND SENATE
- HB 708 Expungement of certain charges and convictions. Marcus B. Simon (D-53) Allows a person to petition for expungement of convictions and deferred disposition dismissals for marijuana possession, underage alcohol possession, and using a false ID to obtain alcohol when the offense occurred prior to the person's 21st birthday and five years have elapsed since the date of completion of all terms of sentencing and probation. TABLED
- HB 1298 Sentencing guidelines; written explanation that court must file Charniele L. Herring (D-46) Requires the written explanation that the court must file with the record of a case when departing from the sentencing guidelines to adequately explain the sentence imposed to promote fair sentencing .TABLED
- HJ 79 Study; JLARC; sentencing alternatives; report.: Charniele L. Herring (D-46) Directs the Joint Legislative Audit and Review Commission to study sentencing of Schedule I and II offenders and alternatives to incarceration. LEFT IN RULES
- **SB 4 Weekend jail time; replaces the provision limiting nonconsecutive days.** William M. Stanley, Jr. (R-20) Replaces the provision limiting nonconsecutive days in jail for the purpose of allowing the defendant to retain gainful employment with a good cause standard and allows the court to sentence the defendant to nonconsecutive days in jail only if the active portion of the sentence remaining to be served is 120 days or less PASSED HOUSE AND SENATE
- SB 124 Parole; transition assistance prior to parole or release. : <u>William M. Stanley, Jr.</u>(R-9). Requires the Department of Corrections to offer prisoners prior to release the opportunity to participate in a transition program to include advice for job training opportunities, recommendations for living a law-abiding life, and financial literacy information. PASSED HOUSE AND SENATE

Virginia

New Trend: Community Based Facilities for Juveniles

The 2016 General Assembly took a step toward community-based treatment centers for juveniles, agreeing that savings resulting comes from having fewer juveniles in the system will be invested in rigorous rehabilitation services throughout Virginia. In January, Gov. Terry McAuliffe asked lawmakers for \$90 million in bonds to build two smaller juvenile correctional centers, including one in Chesapeake that would serve teens in Hampton Roads. The location would save travel time for law enforcement, would allow families to be part of the teens' treatment and would help plan for their successful reentry to society. Eventually, under McAuliffe's plan, Virginia's two large juvenile prisons, both near Richmond and both with at least 100 empty beds, would be closed. Legislators have countered with enough money in the 2017-18 budget to plan — but not build — the Chesapeake facility. McAuliffe has asked the conference committee to restore money to build. The shift to a community model is already changing the way the Department of Juvenile Justice works with youth. All staff in residential programs are being trained to be part of the treatment teams, helping to teach residents life skills ...

In addition, DJJ is currently participating in an interagency Task Force on Juvenile Correctional Centers that is charged with considering the future capital and operational requirements for the juvenile correctional centers. The Task Force comprised of representatives of Virginia government agencies that provide services to youth, is considering issues such as the level and type of services that will be provided; the suitability of alternative housing models in the JCCs; and the number and geographical location of facilities across the Commonwealth. Nearly 50 representatives of local governments and law enforcement agencies, professional associations, and concerned community members attended the second meeting. Most attendees expressed support for DJJ's efforts to serve juveniles in smaller, more therapeutic settings, closer to their home communities. The Task Force will present an interim report to the Governor and other key elected and appointed officials by November 1, 2016, with a final report by July 15, 2017.

"Protecting Childhood: A Blueprint for Developmentally Appropriate School Policing in Virginia"

This report created by Virginia based JustChildren addresses the "school to prison pipeline" and offers suggestions for reform . Among the suggestions are:

- Clarifying that school resource officers are responsible for enforcing laws and intervening when there are serious threats—not dealing with routine discipline issues or enforcing codes of conduct.
- Removing misdemeanors and non-crimes from lists of acts that must be reported to law enforcement.
- Eliminating school-based disorderly conduct charges against students.
- Requiring school divisions and law enforcement agencies supplying school resource officers to have a memorandum of understanding listing the duties of security personnel.

JustChildren will work to make sure the public knows its findings and will reach out to school systems to discuss adopting the reforms. The organization also will be active during the upcoming legislative session.

State lawmakers begin examination of Jamycheal Mitchell's death in jail

In a hearing before the Joint Subcommittee to Study Mental Health Services in the Twenty-First Century. Lawmakers learned that other inmates suffered neglect at the Hampton Roads Jail as well as Jamycheal, who suffered from severe mental illness and died of "probable cardiac arrhythmia accompanying wasting syndrome" after 90 days in custody.

"I'm not ready to lay blame yet because I'm still learning more about it." However "The more I learn, the more I don't like," said Del. Peter Farrell, (R-Henrico County), at the hearing. "And it seems like nobody wants to stand up and take responsibility for it in any upfront way."

In the hearing lawmakers questioned State Inspector General June Jennings and Priscilla Smith, director of Behavioral Health and Developmental Services for the Inspector General's Office. Farrell said he was concerned that the Office of the State Inspector General did not have authority to review records of the Hampton Roads Regional Jail, or to inspect it. When asked if she had found other inmates suffering from neglect, she answered "Yes." Lawmakers had questions about the jail and what level of site visits and interviews Jennings' office conducted. "I'm particularly interested when you get to talking to the fellow at the jail who said there's nothing wrong there," said Sen. Creigh Deeds, (D-Bath County), subcommittee chairman. "They just let that guy die." Del. Vivian Watts, (D-Fairfax County), asked if the Portsmouth commonwealth's attorney had evaluated whether a criminal investigation of Mitchell's death was warranted. "I'm not aware that that has occurred," Jennings said.

UPDATE: As of June 25, it has been reported that the State Police will conduct the investigation. The HRRJ maintains that inmate witnesses are providing false testimony and cites one witness who was not booked till after the abuse he detailed had occurred! We must wait for the investigation to reveal what happened and hope that it is conducted objectively.

Review: Economic Perspectives on Incarceration and the Criminal Justice System

The April, 2016, Obama Administration Council of Economic Advisors' (CEA) report, "Economic Perspectives on Incarceration and the Criminal Justice System" should be welcome to Virginia CURE. In clear language and with excellent evidence-based research, the report powerfully delivers the justification for long-advocated justice reforms. It advocates greatly reducing US incarceration. In addition, the report addresses the broader economic consequences ("collateral consequences") on overall US economic health, the American workforce and labor supply, consequences for children, women, the elderly, minorities, and even for other critical sectors such as education, and transportation.

Unfortunately, the report falls significantly short where most expected, considering its stellar economic authorship. While thankfully arguing well-beyond ban-the-box to more urgently propel persons into successful post-release employment, the report entirely ignores a most significant failing of the current criminal justice system, namely corrections' deliberate policies expelling incarcerated persons from the US labor force and successful employment while incarcerated. The report gives a free pass to corrections at all levels, and to Federal Prison Industries (FPI) and the state prison industry in particular, which deliberately deny incarcerated persons all access to remunerative employment, squelch and starve work release and the PIE (Prison Industry Enhancement) private sector job program, and willfully ignore needs for meeting child support and victim restitution obligations, among other financial obligations of incarcerated workers. It is somewhat of a mystery how a report focusing on economic consequences and emphasizing the importance of offenders successfully joining the legal economy, could breeze past, without remark, incarceration policies designed to drive workers even further from hope of legal employment success.

Tom Petersik, PhD

Doing A Better Job -Report from the 2016 NCIA Conference

VA CURE's statewide meeting in November was organized to take a harder look at workforce development, specifically for those who are/have been incarcerated. Because we know only too well that one of the most devastating outcomes of detention is loss of income at a time when the costs connected to being detained skyrocket. Loss of or lack of a job undermines future employment while hurting family members. VA CURE takes Governor McAuliffe seriously when he speaks of his vision for 'Getting Virginia Back to Work' -- because we believe this means <u>all</u> Virginians.

So VA CURE decided again to send a delegate to the National Correctional Industries Association (NCIA) in Pittsburgh, PA and to continue to support the PAPIS: Virginia Reentry Coalition's work. And we were thrilled to see the AG's Office hold a state conference in early May entitled 'Future Directions in Reentry' which focused on jail reentry.

At this year's NCIA conference, VA CURE was pleased to find an eight-member team of VADOC's top Virginia Correctional Enterprises (VCE) administrators attending. It was clear from conversations with VCE's CEO John Garman that both he and Director Clarke are committed to the complex issues of increasing the number of skilled job placements. Challenges to projects include limited space in a correctional facilities and opposition from community leaders or legislators who don't wish to see job competition or funds directed towards these projects. As a result, each VCE jobsite must perform efficiently and effectively. NCIA events and the network of experts they provide one another is a tremendous asset to Virginia's efforts.

Ramping up takes strategic planning, cooperation from industries at a time when budgets are tight. It also means that updated competitive skills need to be taught while finding new markets and skilled instructors to train a constantly rotating team of employees. It is a rare breed of managers who are open to the idea of taking less pay and a complex security environment in order to run a business on the inside. VA CURE is grateful to both the VCE managers and the many employees who understand this and do not make things more difficult for their peers and the operation. VA CURE stands firm in the idea of expanding every type of employment opportunity but in particular the PIE model where inmates are paid prevailing wages for work that transitions quickly to jobs on the outside. The Prison Industry Enhancement (PIE) allows for businesses to compete across state lines. A good example of a PIE model is Howard Industries in Fairview, PA. Howard Industries is a wholesale architectural signage manufacturer with a correctional industries component. Because Howard Industries is positioned this way they can sell to Virginia. Virginia and/or VCE is able to order signage

Do You Know Your Release Date?

We have received some letters from prisoners who claim that they are serving more time than expected due to what looks like miscalculation of release dates. Some are serving more than a month longer than their own calculations indicate. If you are one of those who feel your release date has been miscalculated, please inform VA CURE. We hope this is not a system wide problem, but, if it is, it should be investigated as such mistakes can be costly!

parts then assemble them for state contracts to state offices. Once the employee learns the skills necessary to be competitive they can take that job experience back to the community. The resume they build and the network of support makes the transition smoother. Businesses are looking for new hires who have a work history with the kinds of skills they need to have someone up and running as quickly as possible. And new hires with the good 'soft skills' (people skills) do make great employees. It was gratifying to hear so many presenters at the NCIA conference say that many of their workers are light years ahead on the job than many of the new hires that businesses are faced with these days.

VA CURE wants to be able to continue our focus on workforce development so we ask you to do your part and give us your suggestions.

Christa Pierpont Virginia CURE Board Member

VA DOC Places restrictions on restroom use during visitations

Beginning July 1, 2016, all Department of Corrections facilities closed bathrooms within the visiting area. Visitors are cautioned to utilize restrooms in entrance areas before entering the visiting rooms. This rule is especially annoying in some large facilities, like Greensville, where visitors are left at bus stops by shuttles and required to walk some distance to the buildings. When DOC staff were questioned about this new policy by Virginia CURE they replied that this policy was the result of the increasing amount of drugs brought into the system by visitors. These drugs are far more potent today than they have been in the past, we were told. The DOC stated, that they have seen a rising number of drug overdoses that necessitated hospitalization. Eight prisoners in one facility had to be hospitalized, one for a week before recovering. Opiates are especially popular, as they also are among the general public. Most smuggled drugs have been discovered on visitors. However, officers are checked for drugs as well. DOC staff are looking for a solution to the problem at Greensville, we were told. We will be bringing this up in our next meeting with DOC so if you have any suggestions for the DOC for dealing with this issue, send them to VA CURE!

Libraries hosting free video visitations

The Brooklyn Public Library has received funding to set up jail video visitation sites in 12 of its locations. Unlike visitation centers at county jails, the libraries will build visitation centers that are comfortable, humane and don't charge families exorbitant fees for connecting with loved ones. The video visitation rooms at the libraries will be designed to be comforting and welcoming, with books and toys that the person who is incarcerated will also have during the visit, so they can read books to their children and participate in the same games and experiences as the visitor. This trend is now being seen in many states and is growing. It can only be welcomed, given the importance of family and the unfortunate, also increasing use of video visitation as the only type of visitation at many local and regional jails.

Rep. Scott asks for update on new ' Death in Custody' reporting law

Alarmed by the number of law enforcement-related deaths in Norfolk, U.S. Rep. Bobby Scott on Thursday asked the Justice Department for an update on a new law intended to track and report such deaths nationally. Scott sent a letter to Attorney General Loretta Lynch asking that he and other legislators get a briefing on efforts to complete by a December deadline a federal report on individuals who died while being arrested or while in custody in adult or juvenile lockups... The federal Death in Custody Reporting Act of 2013, which Scott co-sponsored, requires that the Justice Department compile and release a detailed report of all police-related deaths. The report, when completed, must be updated every three months in the years that follow. Law enforcement agencies are required to provide the Justice Department with the name, gender, race, ethnicity and age of every person who died as well as the law enforcement agencies involved and a description of what happened. Agencies that do not comply would lose some federal funding...."Accurate information on deaths of individuals detained, under arrest, or in the process of being arrested by law enforcement is critical in assessing what additional steps the federal government, as well as local and state governments, may need to take to reduce incidences of avoidable deaths in our criminal justice system," Scott wrote. "It is thus imperative that the Department enforce and implement the law as it is written to ensure that this data is accurately and timely collected." A similar reporting law – also supported by Scott – had been passed in 2000 but was not reauthorized by Congress and expired in 2006.

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**

FYI: Parole Decisions January – April 2016

January Parole Decisions			
Total Regular Parole Decisions	275	March Parole Decisions	
Total Grants Regular Parole	5	Total Regular Parole Decisions:	178
Percentage for January	. 2%	Total Grants Regular Parole	16
		Percentage for March	9%
Total Geriatric Parole	35		
Total Geriatric Grants	1	Total Geriatric Parole	56
		Total Geriatric Grants	2
Total Violation Hearings	19		
Total Violation Revocations	14	Total Violation Hearings	31
		Total Revocations	30
February Parole Decisions			
Total Regular Parole Decisions	289	April Parole Decisions	
Total Grants Regular Parole	11	Total Regular Parole Decisions:	294
Percentage for February	. 4%	Total Grants Regular Parole	17
		Percentage for April	6%
Total Geriatric Parole	43		
Total Geriatric Grants	3	Total Geriatric Parole	16
		Total Geriatric Grants	3
Total Violation Hearings	27		
Total Violation Revocations	25	Total Violation Hearings	29
		Total Violation Revocations	28

U.S. Department of Justice Report and Recommendations : "Concerning the Use of Restrictive Housing" (January 2016)

In July, 2015, President Obama announced that he had asked Attorney General Loretta Lynch to conduct a review of "the overuse of solitary confinement across American prisons." The report was released in January. It questioned how prisons could manage the most violent in the safest and most humane manner. The report concluded that the practice of solitary "should be used rarely and applied fairly, subjected to reasonable constraints."

Recommendations were numerous, and included: regular reviews of prisoners by a multidisciplinary staff committee, including medical and mental health professionals, development of plans for returning people to less restrictive environments before being released to the community, revising written policies regarding disciplinary investigations, reducing the maximum time an inmate can be placed in segregation as a sanction for violating a disciplinary rule, expanding its network of residential mental health treatment programs, diverting people with serious mental health issues from incarceration, hiring 108 additional psychology positions, ending the practice of placing juveniles in solitary, directing Wardens to develop individualized plans for maximizing out-of-cell time, and changing the way it restricts prisoners during out of cell time.

The report concludes with descriptions of ongoing research through cooperation with the Bureau of Justice, with the Vera institute, the National Institute of Justice and the Bureau of Justice Assistance. The Vera study will examine the use of restrictive housing in 5 states, Nebraska, North Carolina, and Oregon, and the local departments in New York City and Middlesex County, New Jersey.

Red Onion Documentary "Solitary" featured at American Film Institute in Washington

On June 23, VA CURE members and others were privileged to see a preview of an HBO documentary entitled simply "Solitary.". The documentary was filmed at "Virginia's own" maximum security prison, Red Onion. It involved conversations with inmates and staff and endeavored to communicate what it is like to live in segregation 23 hours a day. "Look, how would you like to live in a bathroom for 10 years?" states one inmate. In spite of the positive view of a well run facility presented by the Virginia Department of Corrections, the pain and loneliness of the prisoners shows through. The stress on all, officers and prisoners alike, was palpable. The constant return of the camera to an empty common area surrounded by banks of closed cell doors behind which could be heard the sound of caged men screaming, shouting and banging, communicated most effectively the hellish environment of those condemned to solitary. The documentary will air on HBO sometime in September.

CURE Chapters

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mary.anne.stone@verizon.net
4th Sunday, I :00 PM
Friends Meeting House
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Richmond VA 23221

Hampton Roads CURE James Bailey Jbailey383@aol.com 3rd Tuesday, 7:00 PM Norview Baptist Church 1127 Norview Ave. Norfolk VA 23513

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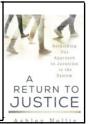
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A Return to Justice, Rethinking Our Approach to Juveniles in the System

Ashley Nellis, Senior Research Analyst at The Sentencing Project

Juveniles who commit crimes often find themselves in court systems that do not account for their young age, but it wasn't always this way. The original aim of a separate juvenile justice system was to treat young offenders as the children they were, considering their unique child status and amenability for reform. But, in the recent past, the juvenile system was slowly dismantled and replaced with a

system more like that for adults. Now, after years punishing young offenders as if they were adults, slowly the justice system is making changes that would allow the original vision for juvenile justice to finally materialize. The question now is how to take advantage of the opportunity for juvenile justice reform of the kind that would reorient the juvenile justice system to its original intent both in policy and practice, and would return to a system that treats children as children. Using case examples throughout, Ms. Nellis offers a compelling history and shows how we might continue on the road to reform

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^{*}Prisoners may send five stamps.