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# News ||||| Inside

A compilation  
of criminal  
justice news  
from  
The Marshall  
Project



John Pittman, left, is Davon Eldemire's mentor and is helping him plan for life after release.  
KARSTEN MORAN FOR THE MARSHALL PROJECT

"This  
does not  
have to  
continue  
to be  
your  
reality."

An introductory note to young men written  
by mentors in Cheshire Correctional  
Institution's TRUE program. **PAGE 2**

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# A Letter from Lawrence

**I'M PROUD TO PRESENT** the inaugural edition of "News Inside," created by The Marshall Project, a nonpartisan, nonprofit news organization covering the U.S. criminal justice system. I am so excited to bring you high-quality, award-winning journalism that relates directly to your lives, and I hope that these stories will resonate with your experiences.

I have a sense of what those experiences are because I was once incarcerated. My incarceration began when I was 17 and would continue for the next 27 years. Doing time as a child was long, hard and frightening. At first my thoughts were consumed by blame for others. Over the next decade, I developed a deep sense of accountability that allowed me to move beyond my unhealthy feelings and opened me up to a new world that allowed me to flourish and grow despite my bondage. I was still on my journey, but I was free to spend time learning to become better.

As I learned, I became more transparent and willing to share. As I was going through the process of trying to win parole, a friend suggested that I submit an essay about my experiences to The Marshall Project for its "Life Inside" series. I found writing the essay hard. I was in the midst of five parole hearings, a seven-month verbal and emotional wrestling match with years of my life on the line. I was stressed. I had no desire to share.

After a little nudging by my friend, I was able to put my feelings on paper. I reminded myself that I was not only writing my own story, I was writing for all the transformed incarcerated men, women and children.

It was the publication of that essay that led to me walking through the office doors of The Marshall Project two months later—having finally won parole—to talk with their staff about my experiences. And it was that conversation that led to me joining their team and to the creation of "News Inside."

My passion for this project came from my experience of immersing myself in personal enhancement prison programs, particularly higher-education classes. The material I was introduced to challenged me and taught me how to research and think critically. Although I had access to textbooks, a few photocopied articles and outdated encyclopedia software, I yearned for more information. I wanted to draft my essays with resources that would put me in touch with what was relevant in free society. I hope that "News Inside" can do that for incarcerated students, and help those who aren't taking higher education courses equip themselves for 2019 and beyond.

With that in mind, I challenge you to engage with the articles I've compiled here. They cover legal developments, prison programs, stories that inspire hope, social science and Life Inside

stories, which interested readers could one day write themselves. Build off of them and share them with others. Remember, no one can take care of you like you can. And I suggest you start by tending to your mind.

Lawrence Bartley  
Producer, News Inside



Davon Eldemire, center, in the TRUE unit discusses the program at a meeting with Gov. Dannel Malloy of Connecticut. LILI HOLZER GLIER/VERA INSTITUTE OF JUSTICE

## The Connecticut Experiment

Young brains are still evolving.  
One prison is trying to take advantage of that.

**By Maurice Chammah**

Leona Godfrey was sitting down to dinner at a TGI Fridays in Orange, Connecticut, in December 2013 when she glanced at a television and saw her little brother's name on the local news. Davon Eldemire had tried to rob a small grocery store, shooting and injuring the owner. "I was devastated," Godfrey recalled. "What was he thinking? I couldn't eat."

He was 20. She was 10 years older and had helped raise him, looking on in shame as he piled up an arrest record for drugs, larceny, and shooting an illegal gun in public. Lately, he had been talking about buying his daughter, Saniyah, a bed for Christmas. She figured the robbery was how he had planned to get the money. What he got instead was Christmas in jail, and then 14 years in prison for assault and attempted robbery.

At first Godfrey didn't visit, less out of anger than inertia. But early last year, their mother, Linda Godfrey, started begging Leona to come see something neither would have expected: the prison seemed sincere about helping Davon turn his life around. Linda had attended a presentation by John Pittman, an older prisoner who was going to be Davon's mentor, pushing him away from gangs and towards plan-

ning for his life after release. Linda was deeply moved. "He touched my heart," she said of Pittman.

Davon had been selected for a pilot program called TRUE at Cheshire Correctional Institution. The effort represents the edge of experimentation for prison officials trying to help a population — young adults, roughly 18-25 — long known as the most likely to end up in prison and to commit more crimes after their release. Public officials have recently started to listen to neuroscientists who say the developing brains of young adults are still prone to impulse. They're not juveniles under the law, but like younger teens, their minds are plastic and receptive to change. Vermont is raising the age of who is considered a "youthful offender" to 21, Washington is allowing certain crimes committed by those up to 25 to stay in juvenile courts, legislators in Texas are studying how "gaps in services" contribute to crime among 17- to 25-year-olds, and Chicago and San Francisco have set up special courts for young adults.

Uniquely, Connecticut is focusing attention on young men who are already in prison. Inspired by a youth prison in Germany, the state has placed about 50 of them in a single unit, along with a small group of older prisoners who serve as mentors. Many American prisons have classes, jobs, and rehabilitative programs, at least on paper. But in the TRUE program, the older prisoners have been granted the trust and latitude to develop a radically different environment, somewhere between family and reformatory, with strict rules, incentives and long days of work and study. The young men go through a series of stages, learning to confront their pasts, to be vulnerable around their peers, to resolve conflicts through communication instead of violence, and to master basic life skills they may have missed, such as managing a personal budget.

It's too soon to tell what this experiment will yield. The program is tiny, encompassing only two percent of their age group in the Connecticut prison system, and much of its early success relies on the particular men involved. Though it has curbed violence inside the prison — and though none of the nine men released from the program

have been incarcerated for new crimes — the real test will come over the next few years as the department tries to expand the program and participants return home in larger numbers. Though researchers see promise in the idea of using mentors, it can be tough to isolate their effect in programs such as TRUE, where prisoners are getting lots of different support services all at once. "The literature on mentoring is limited," said Angela Hawken, a New York University professor who studies programs that try to keep people from returning to prison. "There's still a lot to be learned about whether this approach works."

But despite the lack of a track record, the Connecticut program is proving influential. The Vera Institute of Justice in New York, which helped Connecticut develop TRUE, is setting up similar young adult programs at the jail in Middlesex County, Massachusetts, near Boston, and in the South Carolina Department of Corrections. Even as the rhetoric out of the White House tends toward the punitive, many state prison leaders are openly championing rehabilitation.

That's at the macro level. But zoom in and rehabilitation becomes personal: In the TRUE unit, the mentors try to get each of these young men to explain what brought them to prison and to articulate why they want to change. For Davon Eldemire, it came down to his daughter. Soon after he was incarcerated, he was chatting with his sister Leona by phone when he heard Saniah pipe up in the background.

He started to choke up. "What have I done?" he said.

Three years ago, Connecticut corrections commissioner Scott Semple spent a week touring prisons in Germany, where incarcerated men and women cook their own food and wear their own clothes in an environment which, except for the razor wire, looks like a liberal arts college. A dozen other states have sent similar delegations to European prisons, and officials are starting to copy bits and pieces of what they have seen there. Semple, himself a former corrections officer, was particularly struck by Neustrelitz Prison, in Germany's northeastern country-

side, where nearly 200 young men and women live together on a farm, exposed to intensive therapy while raising animals and working in a welding shop. The environment was foreign, but local German officials discussed their challenges in a way that felt familiar. "This is the place for violence because they are young, they are aggressive, they have no control," said Jörg Jesse, the head of prisons for the region.

Less than 24 hours after he returned home, Semple found himself Googling his way through the brain science literature on young adults and crime. Since the 1990s, studies of MRI scans have shown that the prefrontal cortex, which is associated with planning and solving problems, keeps developing pathways to other parts of the brain, including those related to emotions and impulses, well into the second decade of life. This is usually the given explanation for why a disproportionate number of crimes are committed by young people, but Semple noticed that was also true *in* prison, where people under 26 were responsible for a quarter of all "reportable incidents," despite being less than a fifth of the population.

Semple asked the Vera Institute of Justice, which organized the Germany trip, to help him develop a youth prison like Neustrelitz. He envisioned dedicating an entire facility, but budget issues forced him to scale it back to a pilot project. He picked the Cheshire Correctional Institution. As the staff discussed possibilities, Scott Erfe, the facility's warden, noted that older prisoners tended to "adopt" younger ones and give them advice. At community events, he'd seen a lifer named John Pittman get kids to toss away their street scowls and open up about their vulnerabilities. He wanted Pittman to pick others like him to live with and mentor the young prisoners.

Pittman, a tall, soft-spoken man who has earned the nickname "Father Time," is serving 60 years for the 1985 murder of his wife in Hartford. He won't speak about the crime, saying only, "Some of us have taken lives, so it's only fair that we try to save lives." Semple was skeptical of the mentorship idea, since there is also a history of older prisoners preying on young ones, financially and

sexually, and in Germany the rehabilitation programs were run by staff. But Erfe convinced him. (Such exploitation, so far as officials can tell, has not taken place in the TRUE unit.) As Erfe explained it, "Part of this is guards and counselors realizing they can't speak to these young men with knowledge of what they're really thinking; only older prisoners from the same neighborhoods can."

And so the German model took on an American influence. "Sometimes you see what you need is in your backyard," Pittman said.

Left-leaning supporters of prisoner rehabilitation tend to talk about the social and economic forces that lead to crime, while conservatives focus on personal responsibility and poor choices. These two approaches are not in conflict in the ethos of the TRUE program: a bad environment causes bad decisions, but it's up to you to rise above it. "The violence and intermittent chaos of street life translates to prison

tactics such as solitary confinement. Punishments can include doing push-ups and learning dictionary words. There is an emphasis on practical life skills; they get mock currency, and they pay mock rent and taxes. They can get bonus pay for doing extra work, such as cleaning a common area, and fined for disruptive behavior.

But the main thrust of the programming is emotional growth, to get the men to analyze how their own anger and sadness alchemized into decisions that harmed others, and then to chart another path. There is a lot of talking. They talk about Maslow's hierarchy of needs. In "Hip Hop Hermetics" class, they discuss lyrics as a way to explore the pressures they felt growing up. In the "Current Events" class, they view the news of the day through a personal lens. One popular subject was Aaron Hernandez, the New England Patriots football player convicted of murder who later committed suicide in a Massachusetts prison. Even

find this challenge nagging at him: "On the streets nobody ever said, 'Are you really living for your kids?'" He found himself growing bored as the friends who called always wanted to talk about the same petty schemes to make money, dealing drugs, chasing women, getting into fights.

Once in the program, he drew Pittman as his mentor, and they talked about his plans for when he gets out, his family relationships, his emotional responses to stress. "I think he's really helped Davon see the value in being a father figure, how the way you live really affects those who look up to you," said correctional officer James Vassar, who works in the unit. "And then he models that. He's like the grandfather." In essays, Eldemire reflected on his past. "Becoming a product of my environment had me chasing a dream that cannot manifest," he wrote. "That dream was to sell drugs, promote violence without ending up in here." He steeled himself to deal with teasing

## "The starting point is not, 'Everyone is messed up.'"

life with ease," the mentors wrote in an introductory note to the young men. "Perhaps there has been no consideration of how the movement from point to point has stripped you of your voice and made you feel powerless...This does not have to continue to be your reality." The mentors turned the wing — an open floor, dotted with tables and surrounded by tiers of cells — into a temple of self-improvement. A day of work and study can last from 7:30 a.m. until 7:30 p.m. Chalkboards feature quotes attributed to Booker T. Washington and the Buddha.

They devised ways to keep everyone accountable. If officers see someone breaking a small rule — an untucked shirt, a radio left on, tardiness to a class — they can write it down, without the offending prisoner's name, on a chalkboard, and then it's up to his peers to figure out who broke the rule and ask him to fix the problem. When two young men have a dispute, they sit with others in a circle and discuss what transpired and how to resolve the problem; it doesn't escalate towards violence and harsh disciplinary

as he achieved fame and fortune, they noted, Hernandez remained connected to friends in gangs. They spoke of trying to escape their pasts while feeling pressure from old friends to prove they are not "getting soft."

"You go back out, seeing guys run, and you don't run?" Davon Eldemire told the class one day last November. "The change is scary"

When Eldemire first arrived in prison, he spent time mostly with men he knew from outside. When one was attacked, they banded together and fought back. "I was a tough guy, you couldn't tell me nothing," he said. In 2014, he received a disciplinary report for getting into a fist fight. But while working in a prison kitchen, he met an older prisoner who gave him memoirs by Martin Luther King Jr. and the boxer Rubin "Hurricane" Carter. This man noticed that Eldemire talked a lot about Saniyah. "You say you love your daughter," Eldemire recalls him saying. "But are you doing the right things?"

Back in his cell, Eldemire would

from prisoners who weren't in the program. *How's that kindergarten going?* they'd say.

It is unclear just how widespread such skepticism is among other prisoners, or whether it would imperil efforts to expand the program. Not all officers are sold on the idea, either. "Some told me there is a lack of structure" in the TRUE program, said Rudy Demiraj, president of AFSCME Local 387, a union representing officers. Giving the young men push-ups and dictionary words can seem like an insufficient deterrent for officers used to sending them to solitary confinement and revoking phone and commissary access. "We need to get back to holding people accountable for their own actions. It seems to us...that this program is not geared towards that," he said. Demiraj would rather see such resources focused on prisoners with imminent release dates, and many in TRUE will be in prison for long stretches.

Demiraj said he's open to being convinced by hard data that shows the program's participants commit fewer crimes once they're out, but such data



could be years off. (Three years is a common timeframe for tracking new crimes.) In the meantime, Semple is hoping to expand — a comparable women's unit is slated to open later this year. As the program grows, it will inevitably include young men who are not as committed as the first class. And myriad factors out of the department's control affect whether someone commits a crime after leaving prison. "We know we won't bat a thousand," Semple said. "But there are also plenty of people with no history of incarceration, or even police interaction, who we read about on the front page. There is no magic wand." He added that he instructed staff to pick prisoners who seemed like they needed help, not ones already committed to change. "If I wanted to impact recidivism, I would have picked cupcakes," he said.

If the Connecticut story is a lesson in how criminal justice experiments happen these days, it is also a lesson in their limits. Of the nine men released

laws. The TRUE program has not come up in the current race, which still features a wide-open field, but the next governor could easily replace Semple. Of the four department heads on his tour of Germany in 2015, he is the only one still in his position. It is impossible to tell whether the TRUE program would survive a change at the top.

And even if the next governor likes the idea of TRUE on paper, budgetary constraints may keep it small. The current program cost \$500,000 to set up, much of it coming from federal grants. A lot of that cost was for the initial training and overtime, but the necessity of having more staff than usual around may inhibit the project's growth. Semple said a typical housing unit would have two officers during a day shift, but in TRUE there are four, which is more in line with how the department would staff a mental health or solitary confinement wing.

But if TRUE doesn't grow or prove itself through data, Semple sees the

her to spell new words and inquired about her classes at school. Over the next hour, any time he'd put her down for a few moments, she'd look up at him and say, "Upsies! Upsies!" John Pittman snapped a family picture.

Davon's sister Leona had never felt the need to see her brother since she could talk to him on the phone, but once she learned he was making an effort, she realized she needed to make one, too. One night, their mother Linda's usual ride to the prison fell through. Leona said she was too tired to drive her. She laid down to rest. "Something is weighing heavy on my heart," she recalled. "He's going to see all those families, hugging and kissing their loved ones, and he'll be alone...He's going to think, 'What am I doing this for?'" She drove 90 mph to get her mother and made it to the prison 15 minutes after the visiting time had begun.

"He knew all these big words all of a sudden," she said. He was interest-

## The starting point is, 'Everyone has potential.'"

from the TRUE program, one is back in prison after a technical parole violation. That is not officially a new criminal charge, but there is no telling how the public would respond if someone released from the program committed a serious crime. Even now, one state senator is pushing to restrict a different program that allows prisoners to earn early release through good behavior, citing one man released early who shot a police officer.

The TRUE program was cultivated with the express support of Democratic Gov. Dannel Malloy, who joined Semple for a day on the Germany trip and has also pushed a legislative initiative called the "Second Chance Society," which includes reduced penalties for drug possession and an easier route to parole. But he is not seeking another term this November, and in a 2016 Quinnipiac University poll, 44 percent of Connecticut voters said they disapproved of how the governor was handling crime; only 40 percent approved. His predecessor, Republican Jodi Rell, vetoed efforts to shorten prison sentences while supporting "three strikes"

program as worthwhile for how it has already cultivated a prison environment more like the one he saw in Germany. "We've taken a more dignified approach," he said. That's also the perspective of Alex Frank of the Vera Institute of Justice in New York, who has been commuting regularly to Cheshire to develop the program. She sees it as part of a larger movement in prisons that will survive, no matter what happens to this particular experiment. "The starting point is not, 'Everyone is messed up.' The starting point is, 'Everyone has potential,'" she said. "We make this accessible to everyone, and if it doesn't work, it's on the system — hold the mirror up."

On a January evening, Eldemire rushed out of the TRUE unit wing to the visitation room at the front of the prison, where his sister Leona and mother Linda were waiting with Saniyah, who is now six. Her hair was laced through red and white beads, which clacked together as her father scooped her up. She picked at his beard as he asked

ed in learning real estate and flipping houses when he got out. He talked about investing money. When she brought up new clothes and shoes she liked, which used to be a frequent topic of discussion between them, he said, "You don't need all that! Tear up that credit card!"

During regular visitation hours, visitors and prisoners sit across a table from another and are allowed only limited physical contact, but in the "family engagement" sessions of the TRUE program, the rules are relaxed, and the interactions look a lot like they do in Europe. They are allowed to sit next to their visitors and hold their kids. Counselors from the program call family members regularly to update them on their loved one's progress. If they can't find family who seems interested, they look for other people who can visit and keep the young man accountable, whether an old coach or a just a close friend. A 2011 Minnesota Department of Corrections study found that prisoners who regularly received visits were 13 percent less likely to be convicted of a new felony in their first

five years of release. Often, Pittman has found that when he pushes young prisoners to explain bad behavior, they will say they are having trouble getting in touch with their families.

The TRUE mentors and department staff are working with two nonprofits, Workforce Alliance and COMPASS Youth Collaborative, to set up the mentees with jobs and support services such as counseling and education once they're out. Those who have been released call the staff with updates on their progress, and there is talk of creating a "TRUE Alumni network." But all this is in its infancy since so few men have been released.

Davon will be up for parole in three years, and it remains to be seen whether involvement in the TRUE program will help prisoners like him when they go before the parole board. His sentence officially ends in 2027. Until then, Leona dreads the moment when Saniyah comes to understand that her father is in prison; for now, she just thinks he's in a "special school." "She'll say, 'Why did you guys lie to me?'" said Leona. "I'll say, 'It was to protect your heart.'"

When it was time to leave, Saniyah gripped her father tight. "I love you so much," she said.

"Be a good girl, okay?" he said.

## What It's Like to Perform Shakespeare in Prison

An encounter with the Bard transforms a troupe of incarcerated actors.

By Alysia Santo

Just north of New York City sits Sing Sing correctional facility, one of the most well-known prisons in the nation. Less known is the annual theater performance that takes place there, starring inmate actors and run by the



Jason Calkins in Sing Sing's visiting room; playing Officer 2 in "Twelfth Night" (far right). IVAR VONG



nonprofit Rehabilitation Through the Arts, founded by Katherine Vockins. "This isn't about becoming an actor or musician," Vockins said. "We use art forms as vehicles to teach life skills." This year, the troupe put on Shakespeare's comedy "Twelfth Night" to join celebrations worldwide marking the 400th anniversary of the playwright's death. (Unlike in the Bard's time, three women actors played the female parts.) RTA is in five New York State prisons but began at Sing Sing 20 years ago, where it remains a popular program — the current waiting list is almost 100 people. For many of this year's performers, learning to understand Shakespeare's words and themes converted them into passionate fans. The Marshall Project sat in on one night's performance and spoke with some of the players. (Their responses have been edited for length and clarity.)

### Timmy Lee Walker, 42, played the role of Feste

*Incarcerated in 2007 for second-degree murder; serving 46.5 years to life*

This is my second experience with Shakespeare. In 2009, for my first play, they cast me right into the role of Macbeth. I had the bulk of the dialogue, which was the greatest challenge

of my life. I didn't realize the impact the play would have on me. People really accepted it. Like, "Wow, yo, I enjoyed that. Thank you." That meant something to me.

At that time, I was still trying to hang on to a portion of my past lifestyle. I felt I had to have a weapon. I got caught with it, and was transferred to some of the worst prisons in the state. That whole transition period was like, wow. I sacrificed so much for that one little thing. I yearned to get back to a prison with RTA, because it's not extensive throughout the state. I made it my mission.

I experienced abuse when I was younger. I didn't realize going throughout my life my anger extended from the abuse. Whether it was the reflection of hearing my mother scream when she was being abused and being a child and not knowing how to identify with pain and anger at a certain age. I found that later on in life that being able to perform transferred some of that pain.

My favorite Shakespeare line is: "To be thus is nothing but to be safely thus." Meaning just to be is not enough. I have to feel safe.

### Floyd Lindsey, 48, played the role of Malvolio

*Incarcerated in 2009 for first-degree burglary; serving 20 years to life*



Timothy Lee Walker, in and out of costume. IVAR VONG



At one point in the play I'm supposed to do a huge explosion of emotion. Normally, as a person, I don't react like that. I want to be more cool and calculated. So, I had to go past that barrier.

What I learned from Shakespeare is that, although it was 400 years ago, people are people. Our nature hasn't changed that much. We translated the

laughter, the enjoyment, where you have people who are in prison who are doing a lot of time. In the end, we created something within Shakespeare and made it our own.

Being Valentine, he plays a submissive role because he's the servant. I've never been submissive in my life. It was challenging. But now I respect that the submissive role is not a nega-

opportunity to work it out in a real productive way.

### **Omar Williams, 47, stage manager**

*Incarcerated in 2000 for kidnapping, assault; serving 21.5 to 25 years*

When I was coming up, I thought Shakespeare was just for white people. After learning about Shakespeare, he has no color. He has no boundaries. I've come to find out that lines that I've been hearing all my life is Shakespearean. "Some were born great. Some achieve greatness. Some have greatness thrust upon them." That's a Shakespeare line.

Theater can bring me a sense of peace. You're not just watching. You're dreaming while you're watching. It can bring me a sense of coming out of the mold, like when I'm going through a hard time. I can pretend. I became a softie.

We did a show called "The Wizard of Oz," and my favorite song is now "Somewhere Over the Rainbow." It makes me cry. You're not supposed to show no weakness or willingness to cry, but now, things really touch me. Anybody can relate to that song. Everybody wants to be over the rainbow.



The actors at the end of the show (left); stage manager Omar Williams. IVAR VONG

language into modern day terms on our own so we could own it. Then I know what I'm saying so I can express it physically.

With acting, it makes you more conscious. It helps you identify with people. You have to imagine how other people feel because you're playing a character.

### **Jonathan Andujar, 30, played the role of Valentine**

*Incarcerated in 2009 for first-degree manslaughter; serving 25 years*

Believe it or not, I couldn't read before I got into prison. I'm from Brooklyn. How I grew up, I'm a product of my environment. Everything about that is drugs, the gangster life. I used to be Blood.

I taught myself to read. I started with the hood books. [The rapper] 50 Cent, he wrote some books. It was something that is violent, negative, but it got me to read. Then I got tired of reading that stuff.

When I first heard we were doing "Twelfth Night," I'm like, "It's Shakespeare. What's to be excited about Shakespeare? 'To be or to not to be is the question.'" I was making fun of it, just a little bit. I didn't understand it at that point. I seen magic on the first day when we did it. The magic was the

tive thing. It's just the passion Valentine has for his job. That this is what he was born to do.

### **Jason Calkins, 36, played the role of Officer 2**

*Incarcerated in 1999 for second-degree murder; serving 21.5 years to life*

In this play, I get to be an officer, of all things. I give it 100 percent of what I feel that it needs. It needs a little bravo-do, some seriousness to it. Maybe that look like I got some authority: "You've got to come with me. Don't question it."

The first time I read Shakespeare, I was in SHU [solitary confinement]. I wanted to kill some time. Somebody threw down a play; it was "The Taming of the Shrew." It was really hard language at first. I put it down and I was bored for a long time. Then I said, "I'm going to fight through it," and I enjoyed it. I wrote to somebody that I know who would get me books, and they sent me one of those big compilation ones. I really like "King Lear." I like "Othello." I like "Macbeth."

Walking around prison, you always have a mask on. You don't want to be that little fish swimming in the big sea, so you always got to try to be the bigger fish. In the prison yard, if you have a disagreement with a guy, they might want to fight. In this space, if you have a disagreement, you have that

## Undiscovered

**Defendants say evidence laws force them to take pleas while "blindfolded."**

**By Beth Schwartzapfel**

In September 2013, a fight broke out on the sidewalk outside the Bronx nightclub where Aaron Cedres worked as a bouncer. It was a confusing scrum of about a dozen people, and one man suffered a broken jaw and deep slashes to his head and back.

A month later, Cedres — then a 25-year-old father with no criminal record — was charged with gang assault, which carried the prospect of 25 years in prison. Cameras had been posted outside the





Aaron Cedres in the Bronx. A felony assault charge related to a Sept. 2013 altercation outside the El Batey Lounge, where Cedres worked as a bouncer, upended the then-25-year-old's life and left him homeless. He sometimes slept here, in Rainey Park. KARSTEN MORAN

club, and the prosecutor said the tapes looked bad for Cedres, his lawyer recalled. Cedres was offered a plea deal: five years behind bars. He insisted that he had thrown one punch to help break up two men and he urged his lawyer to get the footage.

But Cedres was up against entrenched legal practices. New York is one of 10 states where prosecutors can wait until just before trial to turn over witness names and statements and other evidence known as discovery, which backs up criminal charges. It is a strategic advantage that critics call unfair and unnecessary.

Some discovery — such as video footage — is supposed to be turned over on request, but defense attorneys complain that the requests are often countered, delayed or ignored and that the restrictive discovery rules put people like Cedres into a high-stakes dilemma: Plead guilty without seeing all the evidence, or risk a trial that could end in a prison sentence much longer than what they might get under a plea.

Most take the deal. More than 98 percent of felony arrests that end in convictions occur through a guilty plea, not a trial, according to the state Division of Criminal Justice Services, a slightly higher number than national figures.

For decades, legislation to require prosecutors to turn over evidence earlier has run into stiff opposition from New York's district attorneys, who present a powerful counterargument: the safety of witnesses. More than a dozen such bills have failed in the past quarter-century.

Now, the politics show signs of shifting, and a renewed effort

is underway to push the legislature to overhaul state discovery rules, following the example of traditionally more conservative states such as North Carolina and Texas.

This year, the New York State Bar Association for the first time is throwing its weight behind a new Assembly bill requiring prosecutors to automatically turn over police reports, witness names and statements and grand jury testimony early in the case. Their endeavor is backed by the Legal Aid Society and the Innocence Project, a nonprofit that helps exonerate people who have been wrongly convicted, although it faces a difficult road. There is no companion bill in the Senate, and Gov. Andrew M. Cuomo has not embraced the idea.

At the same time, the state court system is considering providing judges with a new tool to ensure that prosecutors turn over potentially exculpatory information.

The disadvantage that defendants face in New York has begun to draw more attention, said Carlton Berkley, a retired New York City police detective who leads Discovery for Justice, a Bronx group founded in 2013 to oppose the discovery rules that some critics deride as New York's "blindfold law."

"When I was a cop, I always believed the criminal justice system was on the level," said Berkley, who was a critic of some departmental practices and who has four brothers who have served time in prison. "I'm embarrassed now to say that."

The efforts in New York reflect a national trend toward more open discovery laws. Ohio broadened its laws in 2010. New Jersey and Utah now require discovery be provided before a guilty plea. The American Bar Association, whose standards often serve as models for state laws, has convened a task force to update its criminal discovery standards for the first time in more than 20 years.

Even in New York, some prosecutors already go beyond what the law requires. The Brooklyn district attorney's office has long provided open and early discovery in most cases. The acting district attorney, Eric Gonzalez, said that his office sometimes seeks protective orders to shield vulnerable witnesses or, more rarely, to relocate

them. "We've been able to find the right balance in how to keep our witnesses safe and also make sure the process is as transparent and open as possible," Gonzalez said.

State lawmakers, facing resistance from prosecutors, have been reluctant to follow that tide.

Prosecutors describe frightening encounters between the accused and witnesses and warn of violence in a "no snitching" culture intensified by social media. Prosecutors say the current law helps protect witnesses by allowing them to withhold witness information indefinitely, since so few cases go to trial. Jack Ryan, the chief assistant district attorney in the Queens district attorney's office, recalled a recent case in which a witness was photographed on his way into the courthouse.

"Before the witness even testified, that video was uploaded on Facebook identifying the guy as a snitch," Ryan said. "There's a legitimate fear"

Cedres and his lawyer, Kristin Bruan, said that at first he refused the plea, but as the months wore on, he began to consider it. Pending felony charges meant that he lost his job, then his apartment and car. His girlfriend moved into her mother's house with the couple's infant daughter, and Cedres was homeless.

Bruan wondered if Cedres accurately remembered the chaotic event, or if his single punch was enough to make him guilty under the law. Prosecutors in this case turned over police reports indicating that the victim and his girlfriend had found Cedres on Facebook, identified him as a leader of the assault and were willing to testify.

"Without that video, our guy was going to prison," said Bruan, a staff attorney with Legal Aid.

Bruan filed a motion for discovery shortly after Cedres was arrested. Under the law, the prosecution had 15 days to hand over the material or explain why it would not. Fifteen days passed with no reply, then 30, Bruan said.

Judges have few available sanctions for prosecutors who do not comply with discovery requests.

The judge who presided over a later stage of Cedres's case, Troy K.



Webber, said a judge could have ordered the video tossed out of the case. But that would have wrongly punished the defense, she said in an interview. "You have to hope the people will turn over the video," said Webber, who now sits on a state appellate court.

More than two months after Bruan's initial request, the prosecutor wrote that the video "does not show anything/is corrupted," an email shows. Bruan pushed back, and after another five months of wrangling, the videos appeared in her inbox.

They showed almost exactly what Cedres said they would: In the mayhem, he threw two punches to free the club owner's son from a bear hug. A separate fight spilled down the street, where a crowd of people beat the man who was ultimately seriously injured. After a year and a half and 22 court appearances, the charges were dismissed.

Patrice O'Shaughnessy, a spokeswoman for the Bronx district attorney's office, declined to comment on the case.

After Cedres lost his job, he was arrested a number of times for petty offenses such as jumping subway turnstiles. He now lives with his mother and earns money as a driver, but he said his stability feels fragile.

"I'm getting little things back, but I shouldn't have lost it to begin with," Cedres said.

Prosecutors are supposed to turn over evidence that is favorable to the accused — called "Brady material" after a landmark 1963 Supreme Court decision — regardless of other discovery rules. But the high court never set deadlines, and lower courts have split over whether Brady material must be turned over before a plea.

What constitutes such evidence is left to prosecutors to determine, and the line is not always clear. In 35 percent of the cases in the National Registry of Exonerations — 711 in all — officials withheld exculpatory information.

The New York court system is expected to soon approve a rule change: Judges would issue an order in criminal cases reminding prosecutors of their Brady obligations. The order does not

change what prosecutors must turn over, but it would for the first time allow judges to hold in contempt prosecutors who willfully violate the obligation.

But the deadline in the order is 30 days before trial — well after most plea negotiations have taken place.

The pressure to plead can be enormous, especially because offers tend to go up as time goes by. Cedres was able to post bail with a loan from his parents, but more than 35,000 people in New York City are jailed each year because they cannot make bail, according to the Independent Budget Office. People held in jail are more likely to plead guilty, two University of Pennsylvania studies show, not because they are more likely to be guilty but because that is often the surest way to get home more quickly.

Kimberly Overton, a prosecutor who runs training programs for the North Carolina Conference of District Attorneys, said a 2004 state law requiring prosecutors there to turn over most of their files automatically very early in a case helped to clear up any potential ambiguity over Brady material. "There is no decision for a prosecutor to make now," she said.

Adding to the ambiguity is that discovery policies vary not only by state but also by prosecutor.

While Brooklyn has a more open policy, the Queens district attorney's office will negotiate pleas only before a grand jury indictment, a point when the law requires no discovery at all — and sometimes before there is time to thoroughly examine the evidence they have.

"We disclose what we need to disclose," Ryan said.

More than a dozen defense attorneys and judges who practice in Manhattan said the district's attorney's office there hews closely to the restrictive state law. Even the name of the accuser is routinely withheld until the eve of trial, they said.

The Manhattan district attorney, Cyrus R. Vance Jr., disputed the characterization. "We do provide more than the law allows already," Vance said. "If it's in the file, we tell our assistants to turn it over, except in situations that involve witness safety."

In late May, Vance's office announced a new policy to provide dis-

covery at arraignment in some felony cases where the main witness is a police officer.

Ryan and Vance acknowledged that defense lawyers who have good relationships with prosecutors are apt to get an earlier crack at discovery than others.

"When serious lawyers understand they're dealing with serious lawyers on the other side, that usually leads to a level of trust that accelerates discovery," Vance said.

Faster discovery, advocates of the change argue, can lead to fairer outcomes. This happened in the case of Winston Jones.

In November, Jones was arrested and charged with breaking into a Brooklyn bodega and stealing Red Bulls, cigarettes and cash. At 35, Jones had been arrested in connection with dozens of petty crimes, but this time he was charged with burglary, a felony.

Prosecutors offered him a plea: one and a half to three years in prison if he took the offer on the spot, said his attorney, Scott Hechinger of Brooklyn Defender Services. Jones' memory of the night was blurred by alcohol, but he did not view the crime as serious. He refused, and was sent to Rikers Island.

Because of Brooklyn's discovery policy, three months after his arrest Jones was able to read the grand jury testimony of an employee who recognized him from surveillance videos. He saw himself on tape, rummaging through coolers and slurring his words.

After insisting that he had done nothing, Jones began to talk about a lifetime of alcohol abuse. Hechinger brought this back to the negotiating table, and in June, Jones pleaded guilty to attempted burglary in exchange for inpatient drug and alcohol treatment. If he does well, he will avoid prison, and the case will be dismissed and sealed.

James Yates, who in 1979 helped draft New York's current discovery law as a young Assembly staffer and who later went on to serve more than 18 years as a state judge, said he believes the law has been "abused, twisted and turned" to withhold information.

But he said he is skeptical the new bill pending in the legislature will overcome opposition

by prosecutors.

If the law changes, “we’re going to see a huge increase in crime because no one’s going to cooperate,” said Scott McNamara, the district attorney of Oneida County and the president-elect of the state district attorneys association, which has opposed changes to New York’s discovery rules.

As one of many examples, McNamara cited the 2013 case of David McKithen, who was facing drug possession charges in Buffalo when he obtained grand jury testimony of witnesses through discovery. Soon after, witnesses said they and their families began receiving threats. One refused to answer questions on the stand. McKithen was found guilty of witness tampering and intimidation.

A 2015 New York State Bar Association report concluded that states with more open systems do not have worse problems with witness intimidation than New York. In Brooklyn, Gonzalez said, threats to witnesses occur because the defendants already know who they are.

Aside from safety concerns, some prosecutors scoff at the notion that defendants need an earlier peek at evidence to know if they are guilty.

“What the defendant may not know is the strength of the prosecution’s case, and therefore how likely it is that he can ‘beat’ the charges despite his guilt,” wrote three prosecutors who dissented from the state bar association report.

Defense attorneys respond that they need discovery to know whether the facts of the case warrant the charges or whether there are witnesses who might provide an alternative view. In New York, prosecutors do not have to provide witness names at all if they are not expected to testify.

Isaiah Spry learned this lesson in December 2012, when he was bewildered to discover he had been charged with attempted possession of a loaded firearm, a violent felony that carried up to seven years in prison. He had been celebrating his 27th birthday with his girlfriend, he said, when the couple began fighting in the lobby of their Manhattan apartment building.

When the police arrived, he kicked and flailed, according to court documents. A police captain

later said that Spry had tried to wrest an officer’s gun from his holster. Prosecutors offered him a plea deal of two years in prison, said his attorney, Robert Bickel of the Legal Aid Society. Spry refused. He spent five months in jail before finally agreeing to plead guilty to the felony in exchange for probation.

“I knew I was innocent, but I didn’t know what they had against me,” he said.

Just as Spry was entering his plea, the judge called the lawyers up to the bench and advised the defense to go to trial, Bickel recalled. The judge had seen something the defense had not: the grand jury testimony. When prosecutors eventually turned over the testimony, Spry learned that the officer did not recall his grabbing for the gun.

The judge, Justice Gregory Carro of the state Supreme Court in Manhattan, confirmed Bickel’s account but declined to comment further. A spokeswoman for the Manhattan district attorney’s office declined to comment.

Spry was convicted of two misdemeanor counts but acquitted of the weapons charge.

## Training the Brain to Stay Out of Jail

How one ambitious program aims to reduce crime by changing how repeat offenders think.

By Eli Hager

Growing up in public housing in North Charleston, S.C., in the 1970s, David Hayward was familiar with poverty, violence and loss. His mother, grandmother and brother all died when he was young, and his father was in prison. He became addicted to alcohol and cocaine and occasionally lived under bridges and in abandoned buildings, he says. Over the years, his rap sheet grew: At least 15 arrests, mostly for minor crimes like driving with a

suspended license and possession of drug paraphernalia but twice for armed robbery, leading to six stints in jail.

In other words, Hayward is a typical “repeat offender.”

Crime statistics make clear that in the U.S., a handful of young men are responsible for an outsized share of crime. Like Hayward, they are often exposed as children to violence and trauma, parental incarceration, addiction, and poverty, all contributing to a lifelong inability to stay out of prison.

Yet experts in the burgeoning field of prisoner re-entry, which supports former inmates, don’t agree on what—short of addressing systemic issues such as poverty and unemployment—can prevent this hard-to-reach group from committing more crimes.

A small but ambitious nonprofit organization in Charleston called the Turning Leaf Project is taking the one approach that research seems to suggest actually works: It’s training habitual offenders to change how they think, and therefore how they act, with cognitive behavioral therapy. During CBT, patients learn to identify antisocial thoughts and then replace them with healthier ones; for years, this popular form of talk therapy has been used to treat depression, post-traumatic stress, eating disorders and other psychological problems.

Turning Leaf’s model—which has few counterparts, according to a survey of experts and of comparable programs on the National Reentry Resource Center—is to pay formerly incarcerated people to take at least 150 hours of CBT, a “dosage” that research shows patients need in order to change a habit.

On a February morning, Hayward was one of 12 men, some wearing ankle monitors, gathered for a group CBT session in a former South Carolina Department of Corrections facility adjacent to the Charleston county jail. Under a poster of the motto, “Thoughts become actions become habits become... destiny” stood the remains of a holding cell, its door jangling open.

At the front of the classroom, Hayward, 43, prepared for a role-playing exercise. It was his turn to run through a scene that in real life might tempt him to break the law: He’s been entrusted with handling cash at his new job.

When asked by an instructor what

might cross his mind in such a situation, Hayward described thoughts that could lead to trouble. "My boss won't know, and he should have a better system for protecting this money, anyway," he said, with two fingers pressed to his temple—a gesture meant to indicate awareness of thinking. "He knows I'm a felon."

Others in the class added: "I need this money to buy cigarettes and beer." And: "I'm out here in the free world all by myself, and my job only pays \$9 an hour"

Now, the instructor said, it was time for them to try replacing those risky thoughts with ones that could steer them away from committing the crime. "How about, my boss needs that money to be able to pay everyone else?" Hayward suggested. "My coworkers all work for the same \$9 an hour as me," said another student. "And my kids need a good role model..."

For Turning Leaf's participants (this year, 60 ex-prisoners between the ages of 25 and 50), such a careful examination of the mind can be revolutionary, said Amy Barch, the program's founder and executive director. "It's like when you buy a red Honda Civic and then, suddenly, you start seeing that car everywhere. You're *seeing* your thought patterns now."

To complete the program, students must attend and participate in daily three-hour CBT classes, as well as weekly, individualized case-management meetings. They also complete homework—"thinking reports"—in which they record stressful situations that arise in their lives along with how they responded to them.

As an incentive to keep coming to class, Turning Leaf takes the unusual step of paying its participants \$150 a week. Students who finish the course are promised full-time employment with the county or city, often as maintenance workers or parking attendants.

For Hayward, rewiring his brain and returning to work could not be more urgent. "What will my legacy be?" he said after class. "Will they say I was a fighter?"

Hundreds of programs around the U.S. promise to help former prisoners return to society. Some offer creative arts

lessons as a form of therapy. Others present entrepreneurship workshops. Still others focus on more basic needs: referrals for jobs, housing and mental health treatment.

But when the measure of success is whether participants can stay arrest-free for years, it takes a while to see what works. "Re-entry is like a medical profession, but one whose practitioners ... can prescribe any treatment they want," said Barch, 39, who founded Turning Leaf in 2011.

Barch touts the laser focus of her program, which obtained nonprofit status in 2014, on what the most recent and extensive academic research suggests will keep the greatest numbers of ex-prisoners from re-offending.

Applicants must pass a risk-assessment interview that evaluates their arrest records, their pride in their criminal histories, and their feelings toward law and authority—the same

schedule. (A 2012 study found that such "soft skills" help people stay out of prison by not just getting a job but keeping one.)

Half of the program's \$300,000 budget is provided by state and local government; the remainder from foundations and private donors. About one-fifth of the money goes to participants' weekly stipends.

For its inventive model, Turning Leaf, which has four staff members, recently won praise from Sally Yates, the former deputy U.S. Attorney General, and Barch was invited to discuss crime and rehabilitation with Jeff Sessions in December 2016. The Crime Lab, a major Chicago-based anti-violence organization, also came to her for technical assistance in using CBT with high-risk young men.

Earlier in her career, Barch pursued a master's degree in public policy. But she realized that she preferred to work



Donald Judge works at the screen printing shop at Turning Leaf. SEAN RAYFORD

kind of test that judges use to determine whether people in jail are safe to release. Barch uses the assessment to make sure that participants are risky *enough*: If you want to curtail repeat offenses, after all, you have to work with repeat offenders.

The program employs some of its students at an in-house screen-printing business, which makes and sells T-shirts and other apparel. In addition to technical skills, students learn to punch a clock and tolerate a 9-to-5

directly with formerly incarcerated people and dropped out.

While holding down a waitress-ing job, she visited re-entry programs around the country and pored over academic literature on recidivism, or repeat offending. Eventually, she got trained in CBT by the University of Cincinnati Corrections Institute and founded Turning Leaf.

Despite early indications of success—for at least the last two years, no graduate has been



re-arrested—the program retains only about 35 percent of participants. Sometimes, Barch says, she gets burned: Just-released prisoners will show up for a week to collect the money but never complete the course.

For some people leaving prison, life can be just too messy for a program. They may be struggling with physical and mental health problems and the anxiety of being accountable to several government agencies, including parole and probation. To get their children back, they may have to appear in family court. To put food on the table, they may juggle appointments for public assistance.

“What really distinguishes work in the field of re-entry is not just having the right model, because if that were true we’d have replicated it all over the country,” said Ann Jacobs, director of the Prisoner Reentry Institute at the John Jay College of Criminal Justice. “It’s whether you have the dedication to figure out something really hard and complex, namely how to help these very complicated individuals bring forth the best expression of themselves.”

Another challenge, says Joe McGrew, Turning Leaf’s lead CBT teacher, is that everyday life after prison is essentially boring. Many of his students were making thousands of dollars a day back when they were hustling, but now they’re being told to sit in class for just \$150 a week.

As a result, some don’t take it seriously. In a recent Monday morning class, one wise-cracked about feeling “really emotional today” and asked whether he could go change his tampon.

For some, communicating thoughts and feelings during therapy seems unnatural—even embarrassing. “It felt like they were meddling in my business at first, like I should’ve known this shit when I was a little kid,” said Demetrius Hudson, one of the program’s upcoming graduates.

To counter feelings of shame, Barch often tells her classes that she uses CBT in her own life. She also tries to put social, emotional and cognitive skills in the context of “hard” ones like math and carpentry. “It’s not embarrassing to learn something like, say, car maintenance later in

life,” she said. “What’s embarrassing is not being able to stay out of jail as a 44-year-old man.”

For Turning Leaf, the key to overcoming students’ skepticism will ultimately be to get more graduates into real jobs with decent pay. That, in turn, will require either more government investment in communities with high unemployment or more willingness on the part of private companies to take a gamble on repeat offenders.

David Hayward has gotten that chance. And he’s already proven that he can handle risky situations by applying the skills he learned at Turning Leaf.

In 2017, Hayward got a \$13-an-hour job as a line cook at one of the five-star Southern restaurants that Charleston is famous for. One night, he says, overwhelmed by the food industry’s drinking culture, he slipped and took a sip. Then he impulsively began shoplifting and checked into a hotel room to smoke crack.

But Hayward says he quickly got back on track by practicing his thinking exercises. He returned to Turning Leaf for more hours of CBT and employment in the screen-printing shop, and plans to open his own janitorial business.

“There was something different about my fall, this time,” he said, sitting at a desk in his classroom. “Like, I was falling down the mountain again—but with a rope.”

## The DAs Who Want to Set the Guilty Free

“Sentence review units” would revisit harsh punishments from the past.

By Eli Hager

Over the last decade, more than 30 district attorneys nationwide, many who consider themselves part of a new wave of prosecutors more interested in fair play than a stack of guilty verdicts, have established conviction integrity



Prosecutors like Philadelphia District Attorney Larry Krasner, a former public defender, are establishing conviction integrity units. Now Krasner plans to review the sentences handed to those convicted of crimes. MATT ROURKE/ASSOCIATED PRESS

units. The standalone teams of lawyers and investigators delve into an office’s past cases, hunting for people wrongfully convicted of a crime.

But the practice—which affects the handful of cases in which someone truly innocent went to prison—offers limited redress, functioning more as an emblem of a cultural shift than a broad righting of wrongs. The conviction review unit in Brooklyn, N.Y., considered one of the most effective in the U.S., has identified just 23 wrongful convictions over the past several decades.

None of these conviction review units have undertaken the far more ambitious task of examining cases where the conviction might be sound but the punishment doesn’t fit the crime. That would mean poking into the sentences sought by a previous generation of prosecutors whose reflexive stance, for decades, was often to seek maximum charges carrying hefty terms behind bars. “It might open the floodgates to reviewing thousands of sentences,” said Steven A. Drizin, a law professor at Northwestern University and an expert on wrongful convictions who said he supports sentence reviews.

Despite the daunting undertaking, the idea is gaining traction. In Philadelphia, where former civil-rights attorney and public defender Larry Krasner was recently sworn in as district attorney, staffers are making plans for a sentence review program, likely the first of its kind in the country. Nationally, nearly two dozen newly elected prosecutors are working with an advocacy organization called Fair and Just Prosecution to implement their own sentencing-review procedures in the coming year, said Miriam Krinsky, the group’s executive director and a former longtime federal prosecutor.

Such a massive undertaking is, like many of the ambitions of this new breed of prosecutors, far easier said than done.

Normally, courts allow a prosecutor to seek re-sentencing only in limited circumstances, such as when new evidence arises or when legislators pass a new sentencing law that needs to be applied retroactively. For example, Maryland in 2016 revised its mandatory minimum sentences, with a clause allowing judges to use those changes to reduce the time that then-current prisoners were serving.

Sometimes, a prisoner can be rewarded with a reduced sentence for cooperating in a police investigation. The compassionate release process also lets corrections agencies and courts reduce sentences retroactively, usually when the prisoner is gravely ill.

But there is no mechanism in many states for requesting a new sentence for a current inmate simply because a newly elected prosecutor says it's in the best interest of justice.

Kevin S. Burke, a Minnesota state judge who was the president of the American Judges Association, said many of his colleagues on the bench would love to revisit old cases in which their discretion was fettered by mandatory minimum sentence requirements. But they would still need to have a clear reason, grounded in law, for reopening a closed prosecution.

"You have to actually find an error," he said.

In Philadelphia, Patricia Cummings, head of the conviction integrity unit, already has a workaround in mind. She said a group within the DA's office focused on sentencing—which she would likely direct but that still needs staff and funding—could start by looking into first- or second-degree murder cases the office prosecuted in the past.

In Pennsylvania, a conviction on those charges automatically ends in a sentence of life in prison without parole. More than 5,000 of the state's prisoners are currently serving these sentences, the second-highest number in the nation, and about half are from Philadelphia.

If the unit identifies a case where they believe the facts did not warrant such a harsh sentence, it would ask the trial court to throw out the original

conviction and accept a guilty plea on a lesser charge of third-degree murder or manslaughter. Those charges carry much lighter sentences.

"We're still kicking this around," said Cummings, who previously ran the conviction integrity unit in Dallas.

Philadelphia's new project is akin to the recent nationwide review—ordered by the U.S. Supreme Court—of all cases in which juveniles were sentenced to mandatory life without parole. The court ruled that condemning minors, who are by nature impulsive and less cognizant of the consequences of their actions, to an entire life behind bars could constitute a form of cruel and unusual punishment. But that ongoing effort was not originally driven by prosecutors.

Another precedent can be found in Seattle, where prosecuting attorney Dan Satterberg has been giving people in prison second chances for the past decade. He and his staff review old cases in which defendants were banished to life in prison for relatively minor crimes, often under the state's three-strikes-you're-out law. They then sign onto clemency petitions for some of those prisoners.

Three of the 16 prisoners who were effectively "re-sentenced" this way have committed new crimes since getting released. But, Satterberg said, "there's no way to avoid that other than to leave everyone in prison forever."

"I think a prosecutor has a continuing obligation to justice, past the sentencing date," said Satterberg. "We have to be willing to roll up our sleeves, look through the files of old cases, and really... compare them to our contemporary law and practice."

Most states don't have such a robust clemency system that prosecutors can use it as a kind of back-door re-sentencing program. In Pennsylvania, for example, only eight life sentences have been shortened through commutation since 1995. State law requires a pardons board to agree unanimously on any such decision.

That means the mechanism will have to differ by state, said Krinsky, the head of the prosecutors' group. It may even require lobbying efforts to pass new legislation granting DAs the power to file a special motion for amending a sentence.

Another challenge may be the reaction of crime victims, whose attackers might end up with shorter sentences because of leniency, not innocence. "Re-opening the wounds of victims has been a concern of conviction integrity work since it appeared on the scene," said Cummings, the head of the Philadelphia DA's unit.

Cummings says her office has nonetheless begun reviewing letters from prisoners who say their original sentences were too harsh and deserve another look.

"If nothing else, even if you don't ultimately change many sentences, it probably heightens the attitude of people within a prosecutor's office to be careful when they're making charging decisions," said Burke, the former American Judges Association president. "So, at least in concept... more power to them."

## What's Really in the First Step Act?

Too much? Too little?  
You be the judge.

**By Justin George**

Hailed by supporters as a pivotal moment in the movement to create a more fair justice system, endorsed by an unlikely alliance that includes President Donald Trump and the American Civil Liberties Union, the First Step Act is a bundle of compromises. As it makes its way through



President Donald Trump announces his support of the "First Step Act" at the White House in November. RON SACHS/CNP, VIA NEWS.COM

Congress it faces resistance from some Republicans who regard it as a menace to public safety and from some Democrats who view it as more cosmetic than consequential.

What would the bill actually do? The Marshall Project took a close look.

## Reducing crack sentences

The biggest immediate impact of the bill would be felt by nearly 2,600 federal prisoners convicted of crack offenses before 2010. That's the year Congress, in the so-called Fair Sentencing Act, reduced the huge disparity in punishment between crack cocaine and the powdered form of the drug. The First Step Act would make the reform retroactive. Those eligible would still have to petition for release and go before a judge in a process that also involves input from prosecutors. With crack's prevalence in many black neighborhoods in the 1980s, the crack penalty hit African Americans much harder than white powder cocaine users. That disparity has been a major example of the racial imbalance in the criminal justice system.

## Curbing mandatory minimums

The First Step Act would give federal judges discretion to skirt mandatory minimum sentencing guidelines for more people. Known as a "safety valve," this exception now can only be used on nonviolent drug offenders with no prior criminal background. It would expand to include people with limited criminal histories. The Congressional Budget Office estimated that about 2,000 additional people each year would be eligible for exemption from mandatory sentences.

The bill also proposes to ease the severity of some automatic sentences. The mandatory minimum sentence doled out for serious violence or weighty drug charges would shrink by five years to 15 years. The federal "three strikes" rule, which prescribes a life sentence for three or more convictions that include serious violent felonies or drug trafficking, would instead trigger a 25-year sentence. Serious drug felonies that now result in

automatic 20-year minimum sentences would be reduced to 15 years. An automatic trigger that adds 25 years if a defendant was convicted of two or more violent or trafficking charges while holding a gun would now apply only to people with prior records of similar offenses. The shortened mandatory sentences would not apply retroactively, which was a sticking point for some law enforcement groups endorsing the First Step Act. Those groups were crucial to winning Trump's support.

## Enforcing existing rules

A number of reforms in the First Step Act just attempt to enforce what's already written into law or policy. They include placing prisoners in facilities within 500 driving miles of their families or homes, requiring the Bureau of Prisons to match people with appropriate rehabilitative services, education and training opportunities and restating Congress' intent to give prisoners up to 54 days off their sentences for good behavior; the current limit is 47 days. This "good time credit" fix would be retroactive, potentially freeing about 4,000 prisoners.

The bill gives inmates the opportunity to earn 10 days in halfway houses or in-home supervision for every 30 days they spend in rehabilitative programs. There is no limit on how many credits they can earn. Job training and education programs in prison would get \$375 million in new federal funding. Churches and other outside groups would also get easier access to prisons to provide programming.

The First Step Act prohibits the shackling of pregnant prisoners, a practice that has been banned by Bureau of Prisons policy since 2008, and promises women free tampons and sanitary napkins.

The Bureau of Prisons is already supposed to be doing many of these things but has ignored Congressional mandates and its own policies, according to a number of federal audits and investigations. The First Step Act calls for greater use of halfway houses and home confinement, the least restrictive form of supervision, at a time when the federal prison system has been systematically dismantling its

reentry programs. The proposed new law would also expand eligibility for compassionate release of elderly and terminally ill inmates, which would save the government housing and medical costs. Prison officials already have that authority but they release few who apply, denying thousands, some of whom die in custody.

# How I'm Preparing for Parole After 27 Years in Prison

"With my new lease on life, I still remember the one I took."

By Lawrence Bartley

Soon, I will walk out of prison for the first time in 27 years. I've been preparing for this day for so long, I know exactly how it'll go: My wife will pick me up at the gates of Sing Sing, and we'll drive over to Hudson Link, the prison college program that helped me earn my bachelor's degree. They have a computer and a suit waiting for me. Then we'll drive over to the DMV; I've been studying for my written driver's test. I hear everything takes a long time at the DMV, but I'm hoping we'll be done in time to pick up my son from school.

All the while, I'll also be thinking about Tremain Hall. And about the boy I was decades ago before I came to prison.

I was 14 years old when my parents divorced. My father and I moved from our middle-class neighborhood in Laurelton, Queens, to an urban block in Jamaica, Queens. It was a community wrought with the typical symbols of urban ghettos: sneakers strung on telephone lines, drug paraphernalia-littered streets, and barely kept apartment buildings.

People earned what they could, how they could. If you weren't lucky enough to secure a nine-to-five job,



and at times even if you were, you had to find a hustle to make ends meet. Whether it was selling drugs, boosting cars, or robbing neighbors, both young and old were implicated in the struggle.

For naïve kids, the hustle was stimulating, invigorating, even exciting. Peer praise compounded the euphoric adrenaline rush that accompanied the risk, entrenching us deeper every day. I quickly assimilated into this new world where kids with empty pockets and hard eyes could afford the latest fashions and attract the most beautiful girls.

But within just two years, the lifestyle caught up with me. As I sat at the intersection of 150th Street and 89th Avenue with a few friends, a motorcycle turned the corner and sped in our direction. The passenger pulled out a gun and opened fire.

I woke up in the hospital with tubes plugged into seemingly every hole in my body; I had been shot four times. My father stood over me, his typically stern demeanor softened by emotion I had never seen before. Wiping away tears, he asked me what happened. I tried to muster the words to explain it, but there wasn't much to say. He always warned me about hanging out in that part of town, but I didn't listen and there was no excuse. So instead, I jumped to apologizing and promising that we wouldn't be here again.

My father nodded. He put his head in his hands and mumbled, "Why is this happening to me?" But I was confused. *Nothing happened to you, Dad. It happened to me*, I thought. It would be a long time before I could understand what he felt—a pain that comes from comforting someone you love so deeply that you feel their pain viscerally inside your own frame, blurring the corporal boundaries that separate you. It's a pain that comes from the realization that you failed to protect someone you swore you would — perhaps foolishly thought you could. It was the pain of a father who nearly lost his son.

Two weeks later, I was released from the hospital. My wounds had started to heal, but the trauma was still fresh. I had a persistent fear of death, paranoid everywhere I went and skeptical of everyone I met. Because my assailant had no name, face, or reason, he had every name, every face, and every

reason. Not to mention, it was 1990 and the crack era had brought the deadliest year in New York City's history. Murders hit a record high of 2,245, nearly three times the number that caused Chicago to lead the nation in murders in 2016.

Over time, my anxiety became overwhelming. I never wanted to be caught that open and unguarded again. I was not going to be a tally mark for that statistic.

So, I bought a gun.

The minute I held it in my hand, I felt empowered. For the first time, I thought I could guarantee my own safety. I had no intention of firing it—I knew that its mere presence, reinforced by my hard exterior, created a threat that no one would test. I wouldn't be a victim again.

Later that year, on a crisp Christmas night, I headed to the movies with friends. About 15 minutes in, another

see if there was coverage. Four bystanders were injured and, one of them, was in critical condition. I pleaded to him, child to child, "Please don't die. Please don't die."

Tremain Hall died in the next few hours. My heart throbbed, my stomach sank, and my mind raced as I wondered whether it was my shot that had taken his life. How could I live with myself if I had killed someone?

Two days later, I was arrested. According to the prosecutor, it *was* my shot. I was convicted and sentenced to 27 years to life in prison. After more than 27 years and dozens of understandably unanswered apology letters, I still sit in my cell thinking about Tremain and that one fatal shot—the dreadful, inexcusable, and irreversible action of my 17-year-old self.

Now I wake up at 6:15 a.m. every day to a quiet cell block. On my way to



ILLUSTRATION BY TYLER BOSS

group of teenagers walked in noisily. Others in the theater began shouting at them to quiet down. My friends joined in, and quickly we started exchanging offenses. The boys lunged toward us. One of them drew his gun and fired in the dark, crowded theater.

In a matter of seconds, more than two dozen shots rang out in both directions. And in that moment, time froze. The promise I made to my father to stay out of trouble competed with the promise I made to my boys to defend our respect. So, as smoke filled the room and the rapid succession of loud pops came to a deafening silence, I blindly fired once.

I crawled out of the theater and rushed home. I turned on the news to

exercise, I pass a television in the common area airing the news. The other day, five gang members were arrested for conspiracy to commit murder. One of them was just 17 years old.

I looked at him intently trying to imagine his state of mind: Is it chaotic? Is he fearful? Does he understand? I know that stage very well. He wants to believe a jury will find him innocent, but he resigns himself to hoping that his sentence will be a short one. I know his fate better than he does. He'll probably be convicted, sentenced, and do life next to me. Then, a generation later, he will sit in front of the parole board to relive the anxiety of sentencing. It was recently my turn to be sentenced again; would it be parole

or two more years? Leading up to my parole hearing, the men around me built up my hope for freedom, selfishly protecting their own. I was their champion. The one who had done everything right, as they say, and traded the hustle of the yard for homework in the school building. I took a risk in shedding the hard-exterior prison culture encourages for something more human. If I couldn't get free, how could they?

I brought the parole board my institutional file with my bachelor's and master's degrees, program certificates, employment records, community service acknowledgments, and letters of recommendation. They placed it right next to my 27-year-old criminal file, soberly reminding me of who I was: the boy who killed Tremain Hall. So, the question was: How do my accomplishments stack up against the fact that I had taken a life?

Apparently, they didn't. I was denied parole the first time I sat in front of the Board.

Everyone was shocked. Many men around the facility were disheartened, and others angry, thinking about their own situations and how they'd fare. Officers were sympathetic. But me, I was defeated. I laid in bed and dreaded explaining the decision to my family. In the end, I found myself asking: What else could I have done?

I gave it some thought over the next day, and I knew I had earned my freedom. I started working on my appeal and filed two months later. Over the next eight months, I'd sit in front of the parole board another five times as they continued to measure the failures of my 17-year-old self against the successes of my 45-year-old self.

Finally, on April 16, I got my new birth certificate, the letter granting my parole. With my new lease on life, I still remember the one I took.

While I know I earned my freedom, I may be eternally undeserving of forgiveness. It's something I continue to work toward without expectations. It's how I live with myself.

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*Board of Directors and the Parole Preparation Project's Advisory*

*Board. Lawrence holds an advanced degree in Professional Studies from New York Theological Seminary and a B.S. from Mercy College. Wipf and Stock, The Marshall Project and Vice have published his writing.*

## Getting Out of Prison Meant Leaving Dear Friends Behind

"We leaned on each other. We found reasons to laugh while in agony."

By Robert Wright

I have spent countless nights like this, lying awake, anticipating life, trying to escape imprisonment through my mind's eye. I imagine the things I will do once I'm free. Flashes of me laughing with family and friends at a cookout or enjoying the company of a beautiful woman play out in my mind like a silent movie.

I remember the images, so different from these, that swam through my mind on my first night in prison. Hopelessness describes it best. Sorrow, self-pity, and regret stood in the way of my future, along with the steel bars that caged me in. I could not wrap my head around the fact that the next 16 years of my life would be spent in a cell so small that I could lie on my bunk and touch the toilet, sink, and desk without getting up. I was buried alive. Alive but not living.

Suddenly, the door of my cell opens, and an officer says, "Wright, are you ready?" As I rise from my bunk, I am thinking, *Is he fucking serious?* I've been ready since the day the jury foreman read "guilty" off a little index card at my trial.

I grab my mattress, as inmates are made to do, along with a few personal belongings—photo albums, holiday cards, and personal letters—and walk out of my cell. I turn around, mentally

bidding farewell to the tomb in which I spent the last nine years of my life. I've only told a few people I was going home. How can I look into the eyes of a man who will probably spend the rest of his life in captivity and tell him that my exodus has come? We were comrades in sorrow. What united us was pain. What now could I say to this friend to convince him we are still in this fight together?

As I walk down the gallery saying goodbye to faces that are as familiar as my own family's, I'm filled with mixed emotions. I am ecstatic, afraid, and guilt-ridden. The guilt comes from all those I will leave behind. All who suffered with me for so many years. We leaned on each other. We found reasons to laugh while in agony. As I pass them, it strikes me how much these men in their cages resemble dogs in a kennel awaiting their fate. Looking at me with eyes that tell how painful their story is. Wishing to be saved, hoping someone will answer their prayers.

I stop in front of the cell of one of my oldest friends. He looks at me and turns away, wishing me well without looking into my eyes. I give him information on how to get in touch with me. When I go to hand him the piece of paper, I can see he has tears in eyes that he is desperately trying to prevent from falling in my presence. He was sentenced to 40 to life. Never in the 10 years that I have known him have I ever seen him in a moment of weakness. And now it is my departure that is the cause of his vulnerability. We hug through the bars that separate us and exchange I love yous. I walk away knowing he was watching the image of me in the mirror he stuck outside his bars become smaller and smaller, until it would be the last he ever sees of me.

I wish they would have released me in the middle of the night while everyone was asleep. I almost feel the need to explain myself to them. I want to shout, "I'm still one of you!" But they would never believe me, because it would be a lie. While they are missing their families, I will be with mine. Their view of the world will be blocked by the bars that lock them in at night, while my new view will be endless no matter which direction I turn my head. And for some reason, I feel the need to apologize for it.



ILLUSTRATION BY DOLA SUN

The officer escorting me is becoming impatient as I stop every few steps to say goodbye to someone else. A couple of officers walking by wish me good luck. I'm humored at the thought of luck being the determining factor in my success. I'm also a little insulted. You do not survive trauma and chalk it up to luck. No, I won't dare short-change myself in that way. I've been crushed like so many of the men I am leaving behind. To overcome that takes defiance and courage, not luck.

"Come on Wright, don't you wanna get outta here?" the officer says as he waits for me at the center gate that leads to the processing room. I ignore him while struggling to keep the mattress on my shoulder. I begin to have a *déjà vu* moment. Every facility I entered over the years required me to carry a mattress to the cell in which I would be housed. Suddenly I become upset. Even on the day that the state has determined that I have repaid my debt to it, I'm still treated with the same contempt as when I walked into this place. I drop the mattress and keep walking, now only carrying the few belongings I refuse to leave behind.

The officer escorting me looks confused. I continue walking as he begins calling my name. I pay him no mind. I'm a free man now. I have come too far, overcome so much. The mattress represented the chains that cuffed my wrist so tight that they ached for days. It symbolized every strip search in which I had to bend over and was told to "spread 'em." In that moment every dehumanizing second of my incarceration was removed from my flesh.

Being processed out takes over two hours. My anxiety and excitement about taking my first breath of freedom keeps getting interrupted by inmates who just want to say their goodbyes. The truth is, I think they just want an opportunity to touch the closest thing to freedom most of them will ever come into contact with. They are living through me. Placing themselves in my shoes for the moment they so desperately yearn for.

After the formalities of telling the processing officer my birth date, and other information that verifies my identity, I am allowed to put on the clothes that my family sent a week earlier. This is the first time I have worn street clothes in 15 years. It feels weird. Before my incarceration, I wore my clothes very big and baggy, as was the style at the time. Now all the jeans fit very tight. I stare at one of the porters for assurance that I look cool. He nods his head in approval and says, "That's what they wearing out there." I'm not convinced, but other inmates agree.

There is another inmate being released alongside me. Because his family has not sent any clothes for him, he is given court clothes by the facility. This consists of an oversized white dress shirt and a pair of tan slacks that are too small. Very little is said between the two of us as we wait for the officer to drive us to the train station. There is too much going on inside our minds to entertain any chitchat.

After what seems like another hour, we are ushered into a prison van—only this time I am not shackled. Still, all the times I was transported in a van just like

this from one facility to the next cross my mind. I feel chills. *Maybe they aren't really letting me go. Maybe this is a trick.*

Just as my mind begins to get the best of me, I see this slender woman in a wool hat standing in front of the entrance to the train station. As the van slows down I recognize the beautiful brown face. I frantically start pulling on the door handle, but it won't budge. The officer gets out and slides open the van door. He says something as I hurry past him into the waiting embrace of my mother.

Finally, I can breathe.

*Robert Wright is a research assistant at the Center for Justice at Columbia University. In March 2018, he was released from Sing Sing Correctional Facility in Ossining, New York, after being incarcerated for close to 15 years on one count of assault in the first degree.*

## From Prison to Ph.D.: The Redemption and Rejection of Michelle Jones

In prison for 20 years, she was chosen for Harvard's elite graduate history program. Then she was unchosen.

By Eli Hager

Michelle Jones was released last month after serving more than two decades in an Indiana prison for the murder of her 4-year-old son. The very next day, she arrived at New York University, a promising Ph.D. student in American studies.

In a breathtaking feat of rehabilitation, Jones, now 45, became a published scholar of American history while behind bars, and presented her work by videoconference to historians' conclaves and the Indi-



ana General Assembly. With no internet access and a prison library that skewed toward romance novels, she led a team of inmates that pored through reams of photocopied documents from the state archives to produce the Indiana Historical Society's best research project last year. As prisoner No. 970554, Jones also wrote several dance compositions and historical plays, one of which is slated to open at an Indianapolis theater in December.

N.Y.U. was one of several top schools that recruited her for their doctoral programs. She was also among 18 selected from more than 300 applicants to Harvard University's history program. But in a rare override of a department's authority to choose its graduate students, Harvard's top brass overturned Jones's admission after some professors raised concerns that she downplayed her crime during the application process.

Elizabeth Hinton, one of the Harvard historians who backed Jones, called her "one of the strongest candidates in the country last year, period." The case "throws into relief," she added, the question of "how much do we really believe in the possibility of human redemption?"

The Marshall Project obtained internal emails and memos related to Jones's application, and interviewed eight professors and administrators involved in reviewing it.

While top Harvard officials typically rubber-stamp departmental admissions decisions, in this case the university's leadership — including the president, provost, and deans of the graduate school — reversed one, according to the emails and interviews, out of concern that her background would cause a backlash among rejected applicants, conservative news outlets or parents of students.

The admissions dean of Harvard's Graduate School of Arts and Sciences declined to be interviewed, and a university spokeswoman did not respond to a set of eight questions about the case, saying that "as a policy, we do not comment on individual applicants."

Instead, the spokeswoman offered a general statement saying the graduate school "is committed to recruiting and enrolling students

from all backgrounds" and "strives to create an inclusive and supportive environment where all students can thrive."

Harvard has, indeed, made room for a wider range of voices on its campus in recent years, including the formerly incarcerated. Drew Faust, a

punch her crime into Google, and Fox News would probably say that P.C. liberal Harvard gave 200 grand of funding to a child murderer, who also happened to be a minority. I mean, c'mon."

Jones got pregnant at 14 after what she called non-consensual sex with a high-school senior. Her mother re-



Andrew Falk, left, a senior fellow at the Sagamore Institute, works with Michelle Jones, center, and Natalie Medley, right, on a housing policy proposal at the Indiana Women's Prison. ANDREW SPEAR FOR THE MARSHALL PROJECT

historian who is departing as Harvard's president in June after a decade, has expanded global outreach and financial aid and hired a host of minority faculty who have broadened perspectives about prison reform and black culture.

In that mode of outreach, staff members of both Harvard's history and American studies departments took it upon themselves to type Jones's application into Harvard's online system since she could not.

But after the history department accepted her and the American studies program listed her as a top alternate, two American studies professors flagged Jones's file for the admissions dean of the Graduate School of Arts and Sciences. In a memo to university administrators, these professors said the admissions dean had told them Jones's selection would be reviewed by the president and provost, and questioned whether she had minimized her crime "to the point of misrepresentation."

"We didn't have some preconceived idea about crucifying Michelle," said John Stauffer, one of the two American studies professors. "But frankly, we knew that anyone could just

sponded by beating her in the stomach with a board, according to the prosecutor who later handled her case, and she was placed in a series of group homes and foster families.

In a personal statement accompanying her Harvard application, Jones said she had a psychological breakdown after years of abandonment and domestic violence, and inflicted similar treatment on her own son, Brandon Sims.

The boy died in 1992 in circumstances that remain unclear; the body was never found.

Two years later, during a stay at a mental-health crisis center, Jones admitted that she had buried him without notifying the police or Brandon's father and his family. At her trial, a former friend testified that Jones confessed to having beaten the boy and then leaving him alone for days in their apartment, eventually returning to find him dead in his bedroom.

Jones was sentenced to 50 years in prison, but released after 20 based on her good behavior and educational attainment.

In her statement to Harvard, Jones wrote of Brandon: "I have made a

commitment to myself and him that with the time I have left, I will live a redeemed life, one of service and value to others."

Brandon's father and grandmother could not be reached for comment.

### **"Where were all the ladies?"**

Incarcerated in 1996, Jones worked for five years in the law library at Indiana Women's Prison, and got certified as a paralegal. She received a bachelor's degree from Ball State University in 2004, and audited graduate-level classes at Indiana University.

Her blossoming as a historian began in 2012, when Kelsey Kauffman, a former professor who volunteered at the prison, encouraged inmates to research the origins of their involuntary home, which opened in 1873 as the first adult female correctional facility in the United States. Soon, Jones was placing library requests for reference books and, when they arrived months later, scouring the footnotes for what to order next.

After meticulously logging demographic data from century-old registries from the Indiana Women's Prison, Jones made a discovery: There were no prostitutes on the rolls. "Where," she asked, "were all the ladies?" meaning so-called ladies of the night.

With the help of a state librarian, she and another inmate realized that a Catholic laundry house that opened around that time in Indianapolis was actually a reformatory for "fallen women" — those convicted of sex offenses. Then they found more than 30 similar institutions around the country, akin to the Magdalene Laundries recently unearthed in Ireland.

Under Kauffman's tutelage, they wrote up their findings, published them in an Indiana academic journal, and won the state historical society award. Jones also presented the paper remotely at multiple academic conferences, and, at others, shared different work about the abuse of early inmates at Indiana Women's Prison by its Quaker founders.

Jones was supposed to be released in October, but received a two-month reduction of her sentence so she could start a Ph.D. program on time this fall.

She applied to eight, with Harvard her first choice because of historians there whose work on incarceration she admired.

While those historians embraced her application, others at Harvard questioned not only whether Jones had disclosed enough information about her past, but whether she could handle its pressure-cooker atmosphere.

"One of our considerations," Stauffer said in an interview, "was if this candidate is admitted to Harvard, where everyone is an elite among elites, that adjustment could be too much."

Alison Frank Johnson, director of graduate studies for the history department, dismissed that argument as paternalistic.

"Michelle was sentenced in a courtroom to serve X years, but we decided — unilaterally — that it should be X years plus no Harvard," she said. "Is it that she did not show the appropriate degree of horror in herself, by applying?"

"We're not her priests," Johnson added, using an expletive.

### **"A sentence is a sentence."**

Over the past decade, some universities, corporations, and state and local governments have begun to break down barriers that block formerly incarcerated people from education and employment. A "ban the box" campaign by civil-rights groups led scores of institutions, including Harvard's graduate schools, to remove a question about criminal records from their initial applications.

But most of these efforts focus on giving a fresh start to nonviolent offenders, especially those caught up by tough sentencing laws for drug crimes.

"It's like we only have enough imagination — and courage — to envision second chances for the people who shouldn't have been in prison in the first place," Johnson said.

Jones's many supporters include Heather Ann Thompson, who won the Pulitzer Prize in history this spring, and submitted a recommendation letter on her behalf. There is also Diane Marger Moore, the prosecutor who argued that Jones receive the maximum sentence two decades ago and is now writing

a book about the case.

"Look, as a mother, I thought it was just an awful crime," said Marger Moore, now a lawyer at a large firm in Los Angeles. "But what Harvard did is highly inappropriate: I'm the prosecutor, not them. Michelle Jones served her time, and she served a long time, exactly what she deserved. A sentence is a sentence."

Her backers saw her background as an asset, given the growing academic interest in incarceration.

"It was a chance for us to do something that we've been saying we're trying to do at Harvard, which is to set up conversations between academics and eyewitnesses," said Walter Johnson, director of an American history study center at the university.

But the American studies professors said in their memo to administrators that "honest and full narration is an essential part of our enterprise," and questioned whether Jones had met that standard in framing her past. In the personal statement, which was not required, she did not detail her involvement in the crime, but wrote that as a teenager she left Brandon at home alone, that he died, and that she has grieved for him deeply and daily since.

Stauffer emphasized in interviews that he and his departmental colleague, Dan Carpenter, were simply trying to ensure that Harvard did its due diligence about the candidacy.

"We do not want to stand in the way of, advance a case against, or in any way hijack the career of Michelle Jones, who has served her time, who has clearly done amazing things while incarcerated, who shows passion for her craft, and whose full story the two of us can never really know," they wrote in the memo.

"If officials who take a careful look at the case decide that Harvard should move forward, then we think that the university should do everything in its power and ability to welcome Jones here and support her, and we are indeed happy to play a part in that effort," they continued. "We have stated our concerns as questions, and we hope they are treated as nothing more nor less than questions, not as an implicit or explicit judgment against a person and her candidacy."

Jones, in an interview, said

that if anyone at Harvard wanted her to elaborate on the criminal case or her preparedness for the Ph.D. program, they should have asked. "I just didn't want my crime to be the lens through which everything I'd done, and hoped for, was seen," she said.

"I knew that I had come from this very dark place — I was abhorrent to society," she continued. "But for 20 years, I've tried to do right, because I was still interested in the world, and because I didn't believe my past made me somehow cosmically un-educatable forever."

**"I've already graduated from the toughest school there is."**

Yale University also rejected Jones, though it is unclear what role her crime may have played in its decision; officials there would not discuss her application.

But she was courted by the University of California, Berkeley; the University of Michigan; the University of Kansas; and N.Y.U., which assigned graduate students to send Jones welcoming notes on JPay, a prison email app.

She arrived in Manhattan during the back-to-school season of fresh starts, having never used a smartphone. She wore prison-issue glasses and carried boxes full of jailhouse research notes.

If her new parole officer allows it, Jones hopes to teach in N.Y.U.'s prison education program, as a way to remember where she has been. She also hopes to take the train to Cambridge, Mass., every other week to sit in on a Harvard seminar on the history of crime and punishment in America.

"We're having her come up here for that partly out of a sense of pique," Walter Johnson said.

At N.Y.U., Nikhil Singh, faculty director of the prison-education program, acknowledged that "Michelle will have a lot to prove."

"Our hope is that she is actually far, far more resourceful and driven than most college students," he added, "who take for granted they are supposed to be here."

On the Friday before classes started, in a lounge on the N.Y.U.

campus, Jones said any presumption that she is not ready for a Ph.D. underestimates her own moxie and "sells prison short."

"People don't survive 20 years of incarceration with any kind of grace unless they have the discipline to do their reading and writing in the chaos of that place," Jones said. "Forget Harvard. I've already graduated from the toughest school there is."

## A View of Tomorrow

**With virtual reality, juvenile lifers practice for a world they may experience.**

**By Nicole Lewis**

The first time Danny Peters, 55, walked around Community Correction Center II, a halfway house in Philadelphia, he felt he'd been there before.

"It was like *déjà vu*," he said.

Until then, he had only seen it in a virtual reality video while serving a mandatory life sentence at Graterford prison, a now-defunct state correctional facility outside Philadelphia. At the time, he had been incarcerated since 1980, when he was just 17 years old.

In 2012, the Supreme Court decided that mandatory life without parole sentences for juveniles were unconstitutional. And in 2016, the court made the decision retroactive, making nearly 2,000 juvenile lifers eligible for resentencing and for parole.

Suddenly, corrections officials in many states had to figure out what to do with inmates they never expected to have a life beyond the prison walls. In Pennsylvania, prison officials turned to virtual reality. Soon after, Colorado followed suit, creating a three-year virtual reality-based re-entry program for former juvenile lifers. Now, several other states as well as the federal Bureau of Prisons are interested in VR's rehabilitative potential.

Research shows that virtual reality can be a useful therapeutic tool, help-

ing people overcome post-traumatic stress, anxiety and phobias. In some cases, virtual reality programming has even been shown to promote empathy. Proponents of VR in prison hope that it can help prepare juvenile lifers for life after decades behind bars. Critics caution that VR is a crutch, and can't replace intensive programs that address inmates' social-emotional development.

Danny McIntyre, the director of the Bureau of Community Corrections in Pennsylvania, had seen VR headsets promoted at corrections conventions. Virtual reality equipment now costs a fraction of what it did 10 years ago, and many companies have eyed the corrections industry as a new market. When Graterford prison needed a way to help juvenile lifers transition, McIntyre started thinking: Could VR be helpful here? Pennsylvania has the largest number of juvenile lifers: more than 500 in total.

"Could VR help inmates prepare to be in a large crowd?" he wondered. "Could we prepare them to do everyday common things? Things that we take for granted. Things they haven't done in their entire lifetime."

Ultimately, McIntyre settled on helping inmates deal with the anxiety of freedom by creating a 360-degree video of the state's halfway houses. It cost the DOC \$3,500 to film all of the centers, and the 24 headsets it uses run less than \$500 apiece.

When Peters first toured his halfway house using the headset, he found it so disorienting he couldn't stand up. The headset covered his eyes, and his viewpoint changed as he turned his head to look around.

"It was kind of like vertigo," he said. "Even after using [the headset] sitting down, the feeling takes about two hours to wear off. But you actually feel like you are walking through the halfway house, and they explain everything to you."

In 2016, the Colorado legislature passed a bill to create a specialized program for juvenile lifers who were now eligible for parole. Inmates petition the DOC to participate after they have served 20 to 25 years of their sentence. Melissa Smith, programs coordinator for the prison, asked inmates what they wanted to learn.



"Right now we have 32 lessons," she said. "From how to cook a hotdog in the microwave to how to do laundry. How to self-scan at the checkout. How to walk on a busy street. How to use an ATM card."

Smith hired a VR company based in New York, Nsena VR, to develop the interactive videos. The DOC received \$20,000 from the state to run the program, and it cost \$180,000 to buy equipment and make the video modules. The videos play in a headset, and inmates use controllers that double as virtual hands to complete tasks. The graphics aren't photorealistic, but they are real enough to evoke strong reactions from the user.

"We had one gentleman who did the grocery store video," Smith said. "When he took the headset off, he had tears streaming down his face, and the first thing out of his mouth was, 'What else in the world has changed?'"

In addition to using virtual reality, the inmates take classes, learning new skills before trying them in VR. To manage their emotions during the virtual simulations, the inmates work with a social worker and participate in biofeedback sessions, which help them overcome uncomfortable physical reactions to stress.

"We really try to create an environment to work through skills, concepts and emotions, so they can adapt to situations they've never faced before," Smith said. "We learn by trial and error, so this is about giving the inmates opportunities to be in new situations and find positive ways to interact within society."

So far none of Colorado's 48 juvenile lifers has been released, and Smith says it's too soon to say how well the experimental program works. It is still in its first year, and inmates must complete all three years to be eligible for parole. Still, Colorado's VR work has garnered interest from several other states, as well as the BOP. Smith says officials in Florida, Oklahoma and Virginia have expressed interest in using VR programming for prisoners who have spent several decades behind bars.

A BOP spokesperson says the department actively monitors new technologies such as VR, but does not currently use VR in reentry programming.

The Alaska DOC is planning on

implementing VR sessions to help offenders cope with the state's long and dark winters. The DOC has joined with a Colorado-based research organization, National Mental Health Innovation Center, to informally study the pilot program. Matt Vogl, president of the center, says he is optimistic that VR will be beneficial to inmates, citing existing research.

"We have to try new things and try them aggressively," Vogl said. "I don't think tech will solve all the problems, and there are a lot of unanswered questions, but if we can put one more tool in the tool box, we might as well."

As the promise of VR spreads, critics assert that prisons are looking for a relatively inexpensive tech solution to a social problem. How well VR works to rehabilitate inmates is unknown since these programs are the first of their kind. Nancy Wolfe, a professor at Rutgers University whose research focuses on mental health issues and the justice system, says the challenges can be worse for people who enter prison as teenagers and leave as adults.

"You don't realize how much the brain has gone dormant when you put people in an artificial environment that constrains their choices and limits their sensory information," she said.

Inmates' schedules are highly regulated, with correctional officers dictating what they can wear and when to eat, shower, or work. Juvenile lifers enter prison at the same time their brains are starting to develop important cognitive functions such as emotional-regulation and decision making. Adjusting to life in the outside world, with the sheer number of daily decisions they will have to make, can be difficult after decades without practice.

Peters, who was the first in Pennsylvania to experience VR and the first juvenile lifer in the state to earn his release, remembers feeling paralyzed over the thought of doing mundane tasks prior to his parole.

"I had never paid a bill in my life, so when I knew I was getting ready to leave, all the sudden I was thinking, 'I have to pay rent. I need a phone. I have to pay my electric bill and buy gas and clothes,'" he said. "I felt an anxiety in my stomach that I never felt before."

Many juvenile lifers are already

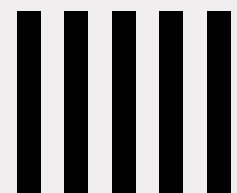
at a cognitive disadvantage before entering prison. A 2012 survey of more than 1,500 juvenile lifers conducted by The Sentencing Project found that 71 percent experienced domestic and community violence, a rate six times higher than the general population. Research shows that trauma and toxic stress is damaging to the brain, hampering cognition, attention and impulse control.

"These are the kids that experienced neglect and maltreatment that led to criminal behavior at 13 years old in the first place," Wolfe said.

However, in the right environments, the brain can be rewired. Wolfe argues inmates would be better served by having more contact with supportive role models who can help walk them through anxiety-producing tasks while mirroring positive ways to cope with the frustration of everyday life. But these kinds of programs are largely absent from prisons, and are more expensive and time consuming.

Prison officials in Colorado and Pennsylvania hope that VR can help jumpstart the process, ensuring that juvenile lifers successfully return to society. But Peters cautions that a virtual scenario is no replacement for real life.

"Nothing can prepare you," Peters said, who now works as a general contractor in the Philadelphia area. "It is worse than a culture shock. I liken it to taking me to a foreign country, leaving me there, and having to learn everything all over again in a new language."





Leroy Gardenhire uses a virtual reality headset at the Fremont Correctional Facility in Cañon City, Colo., to simulate doing laundry at a laundromat. MEREDITH TURK FOR CPR NEWS

**“We had one gentleman who did the grocery store [virtual reality] video. When he took the headset off, he had tears streaming down his face, and the first thing out of his mouth was,**

**‘What else in the world has changed?’”**



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is a nonpartisan, nonprofit news organization that seeks to create and sustain a sense of national urgency about the U.S. criminal justice system. We achieve this through award-winning journalism, partnerships with other news outlets and public forums. In all of our work we strive to educate and enlarge the audience of people who care about the state of criminal justice.

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