

# CURE-NY *Newsletter*

To Reduce Crime and Uplift Society

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## *From the Top*

### President George Bush

at the signing of the NOT YET FUNDED 2<sup>nd</sup> Chance Act:

“The country was built on the belief that each human being has limitless potential and worth. Everybody matters. We believe that even those who have struggled with a dark past can find brighter days ahead. One way we act on that belief is by helping former prisoners who've paid for their crimes -- we help them build new lives as productive members of our society.

The work of redemption reflects our values. It also reflects our national interests. Each year, approximately 650,000 prisoners are released from jail. Unfortunately, an estimated two-thirds of them are rearrested within three years. The high recidivism rate places a huge financial burden on taxpayers, it deprives our labor force of productive workers, and it deprives families of their daughters and sons, and husbands and wives, and moms and dads.

Our government has a responsibility to help prisoners to return as contributing members of their community. But this does not mean that the government has all the answers. Some of the most important work to help ex-convicts is done outside of Washington, D.C., in faith-based communities and community-based groups. It's done on streets and small town community centers. It's done in churches and synagogues and temples and mosques.

I like to call the folks who are engaged in this compassionate work, "members of the armies of compassion." They help addicts and users break the chains of addiction. They help former prisoners find a ride to work and a meal to eat and place to stay. These men and women are answering the call to love their neighbors as they'd like to be loved themselves. And in the process, they're helping prisoners replace anger and suffering and despair with faith and hope and love.”



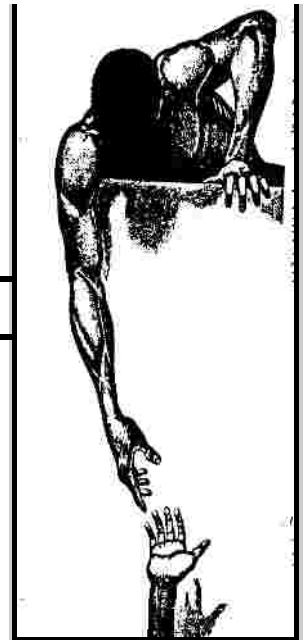
## Wrongful Convictions

The 118-page report, titled “Lessons Not Learned,” by the Innocence Project, detailed **23 wrongful convictions in New York** that have been overturned through DNA evidence.

- In 10 of New York’s 23 DNA exonerations, the actual perpetrator was later identified.
  - In nine of those 10 cases, the actual perpetrators of crimes for which innocent people were wrongfully convicted went on to commit additional crimes while an innocent person was in prison.
- According to law enforcement reports, five murders, seven rapes, two serious assaults and one robbery at gunpoint were committed by the actual perpetrators of crimes for which innocent people were committed – and each of those crimes was committed after the wrongful arrest or conviction, so they could have been prevented if wrongful convictions had not happened.
- Eyewitness misidentification played a role in 13 of the 23 wrongful convictions in New York that were overturned with DNA testing.
  - In 10 of the 23 cases in New York, innocent people falsely confessed or admitted to crimes that DNA later proved they did not commit.
  - Limited or unreliable forensic science played a role in 10 of the 23 wrongful convictions in New York that were overturned through DNA evidence.

*Editor’s Notes: The NYS prosecutorial practices of fostering misidentification, pressuring false confessions, and using unreliable forensic science are obviously intolerable. We await quick and concrete reforms in response to all this damning evidence of rampant injustice.*

*The powerful words of the U.S. President, are welcome, but they are useless without funding by the U.S. Congress of the 2<sup>nd</sup> Chance act. We call for speedy action there, too.*



“He Ain’t Heavy”  
by Gilbert Young

# Parole Review for Michigan Lifers

An important lesson  
from "lifers" at [www.capps-mi.org](http://www.capps-mi.org)

## Introduction

On October 23, 2007, the U.S. District Court ruled that changes in Michigan's parole system as implemented for class members after 1992 were a violation of the United States Constitution. Judge Marianne Battani wrote:

**"The change in the make-up of the Michigan Parole Board, the Board's understanding of why the change occurred and how it was to exercise its discretion, its redefining of the eligibility procedure for non-mandatory lifers, and changes to the timing and intervals of the interview and review process, when considered in total have significantly disadvantaged the class and constitute a violation of the Ex Post Facto clause."**

**To comply with the judge's order, the current parole board must provide parole review for members of the class as it was provided before 1992.** Below is information from pre-1992 parole board members and MDOC officials to assist the current board in accomplishing this task.

### 1. Parolable Lifers Should be Treated the Same as LIDs

"During the time that I was director, 10-year lifers and prisoners on long indeterminate sentences (LIDs) were treated exactly the same for parole purposes.... To the best of my knowledge the Parole Board used exactly the same standards or principles for 10-year lifers and LIDs in making the actual parole decision."

*Perry Johnson, Director of MDOC 1972-1984*

"The evaluation process was exactly the same for lifers and prisoners serving a term of years, such that someone serving life with parole was treated the same for purposes of parole as someone serving an indeterminate sentence like 20-30 years. The paroling process was different, but the standard for parole was the same... [A] lifer... could be paroled after having served ten years."

*-- Robert Brown, Jr., Deputy Director of MDOC for 13 years; MDOC Director from 1984 - 1991; member of Corrections Commission*

"As to the LIDs and the lifer law other than first degree murder prisoners, in making the parole decision the board used the same criteria.... This followed a longstanding policy of the parole board, going back as far as I can recall."

*-- William Hudson, Parole Board Member 1980-1991; Parole Board Chairman 1985-1991*

### 2. Parolable Lifers Should Be Paroled After Serving an Average of 15 Years Absent a Compelling Reason to Deny Parole

- Although the mean time a non-mandatory lifer served was 18 years, it was common to serve less time.

- The mean was elevated because of the small percentage of prisoners who remained risks to society and who therefore served very long sentences or were never paroled.

"If a parolable lifer behaved well in prison, he or she could generally expect - based on the past practices of the parole board - to be paroled in less than 15 years... Parolable lifers who were going to be paroled would typically be out by years 15-18... The board regarded the minimum term as properly governing its release decision absent some compelling reason to depart from it, such as a perceived continued risk to the public or poor prison behavior."

*-- William Kime, Dep. Director of Program Bureau '69-'89*

"Your average parolable lifer, say someone who was in for murder II or an assaultive offense, and who has a good institutional record, would be considered by the board and be paroled between the 10th and 18th year - typically well before their 20th year."

*-- Frank Buchko, Parole Board Member 1962-1974*

### 3. Criteria To Be Considered

- Parole decisions should not be based solely on the underlying crime.

"Before the changes in policy in 1992, the members looked at whether the inmate was suitable to rejoin society. It was rare for parole board members to deny people based on the "nature of the crime" instead of their subsequent behavior and programs."

*-- Robert Brown, Jr., Deputy Director of MDOC for 13 years; MDOC Director from 1984 - 1991; member of Corrections Commission*

"I might have disliked the crime, but until 1992 the board viewed its job as looking at what the prisoner had done since coming to prison."

*-- Marvin May, Executive Assistant to Parole Board 1980-1990; Parole Board Member 1990-1992*

- The most important factor is whether the parolee is a continuing danger to society.

"The fact that someone was a lifer ... had no bearing on the case. The only question was whether or not the person would be a threat to society if released."

*-- Frank Buchko, Parole Board Member 1962-1974*

## Redemption

*Jacob Silberberg for The New York Times; April 8, 2008*

Mark Graham, 45, earned a master's degree while in prison. He was released in 2001 and opened the Redemption Center last year.

"Seek the shalom of the city into which I have sent you into exile," he recited, from the Book of Jeremiah. He spread his arms and looked about. There was little to behold. But it was peaceful.

The first time he heard that verse, he was in exile, inside Sing Sing prison, serving 20 years to life for murder. He had not even turned 17 when he shot and killed a man in 1979, during a street robbery gone wrong. He admits to having grown up in group homes and prison, eventually finishing high school and college behind bars. While at Sing Sing, he earned a master's degree in professional studies offered by New York Theological Seminary.

He now presides over a small village in exile, the Redemption Center in Ocean Hill-Brownsville, where 17 recently released men and women are trying to find their way back into the world they left — sometimes decades ago — because of crime and drugs. It is a shoestring operation, and a frayed one at that. But it beats where they came from. Here, they have a bed, rules, support and a chance to find training or a job.

"What does shalom mean," he said. "How do you find it in those depraved conditions of prison? How do we seek prosperity in this place now? We are people who exist in this land that is foreign to us."

With the American prison population at its highest ever, there are increased calls to help ex-offenders ease back into their communities. Jeremy Travis, the president of [John Jay College of Criminal Justice](#), has written on the topic and presided last week over a conference that addressed the issue.

"We have quintupled the per capita rate of incarceration over the last 30 years," he said. "Many more people are coming back to a small number of communities and facing all these challenges. A very big one is housing."

Mr. Graham, 45, still remembers his first crime. He was 12 years old and had recently moved to Bedford-Stuyvesant from East New York, Brooklyn. A neighborhood teenager named Theodore told him he knew how to make fast money. "He showed me a building where a bike was in the hallway," Mr. Graham said. "I held the door open and he rushed it out. He sold it and gave me \$30."

Before long, he was taking the train to 14th Street in Manhattan and shoplifting like a champ. He would sell what he stole for easy money back in his neighborhood. He learned to drink beer and smoke pot.

He also learned that his mother refused to put up with his nonsense. She allowed the courts to send him to group homes, which were, to him, like finishing school for felons.

"We had all these guys from different boroughs who committed different offenses," he said. "We'd share stories and compliment each other on the lies we told."

He had been out mere months when he went on a robbery spree in the fall of 1979. He and two friends accosted a stranger. Mr. Graham held the gun. The stranger tried to yank it away. A shot rang out and the man, Ivan Porter, was mortally wounded.

A year later, Mr. Graham was serving 20 years to life. He said the first three years whizzed by. Then he realized that people can actually spend a lifetime behind bars. That was when he got serious about going back to school (and devouring the library's law books for a series of appeals that proved to be unsuccessful).

Even during his seminary studies, he said, he had little remorse for what he had done. It was only in 1997 that the depth of his crime hit him. He was watching a movie about a drunken driver involved in a fatal accident, who realized he should have never been behind the wheel of a car.

"If I never had a weapon in my hand, this would not have happened," he said. "That was when the healing began. I had to take responsibility for what I had done. I decided I would dedicate my life to the memory of Mr. Porter. I carry this man with me every day in my heart."

When he was released on October 17, 2001, he looked up Julio Medina, a seminary classmate who had lived in the cell next to his at Sing Sing. Mr. Medina runs Exodus Transitional Community, a respected faith-based program that helps ex-offenders adjust to life outside. Mr. Graham spent four years as a case manager there, until he realized how hard it was for his clients to find housing. Through a series of lucky breaks and the help of his fiancée, he found a beat-up row house in foreclosure. A benefactor helped with money, and friends from prison helped with sweat. Last July, he welcomed the first residents, who help defray costs with their \$215 monthly housing payments from public assistance.

He has not gone wanting for clients.

\* \* \* \*

Just a small reminder: If you've forgotten to donate your annual CURE-NY membership dues, now might be a good time to do it. It's \$2 for incarcerated persons, \$10 basic membership, \$20 for family membership, \$100 lifetime membership, and \$500 for benefactors.

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## Parole Officers' Graduation

*Excerpts from a keynote talk at a recent graduation  
by Amy Oliveras, Co-President of CURE-NY*

“Although there have always been dedicated men and women working for parole, now is a time when there is a statewide recognition that ensuring a successful re-entry of our prison population is one of the most effective ways of reducing crime. There is system wide support of allowing and encouraging parole officers to dare to care about their people. A change is under way, allowing parole officers to relate to their caseloads in a more individualized manner, recognizing that each person on parole has different needs and presents different risks.

Under it's current leadership, parole is collaborating with, not only the other state agencies needed to make successful re-entry a working reality, but has also enlisted NGO's, service providers, not for profit agencies, advocates, communities of faith and many others as allies in this effort.

Your success as parole officers will be measured by the success of those on parole. It is true that to reduce crime you must be tough on crime. It was a long held belief that to be tough on crime meant longer, more severe sentences, and locking up anybody that violated their parole. We, as a society, responded to the high crime rates

of the 70's and 80's with a cure that was worse than the disease. Time and outcome analysis have evidenced that these policies do not reduce crime, and that to be really tough on crime requires being smart on crime; addressing it with a long term vision for a safer future instead of creating a false sense of security for our citizens by measuring our success against crime by the number of people we lock up and the length of time we lock them up for. This new attitude, or new culture, within parole makes your jobs more vital, but no easier.

We no longer accept the definition of “successful re-entry” to mean simply that there is not a return to prison. Certainly that is a big part of success, but the other part of success is to integrate into the community in a way that allows one to become a tax payer, not a tax burden, in a way that allows one to be a contributing member to the schools, the churches, civic organizations...the community at large, and in a way that allows one to realize their full potential as a person.

Punishment is not a goal or function of parole. To have conditions of parole revoked, without provocation is punishment and is counterproductive. Positive behavior should result in a positive outcome. Those that have shown the ability to maintain control over their own lives should be allowed to continue to grow in that capacity.”