

9-20-19
ORLANDO
Sentinel

Top lawmaker calls Florida prison system a 'powder keg'

TALLAHASSEE — To see the real-life consequences of official neglect and incompetence look no further than the Florida Department of Corrections.

For decades, governors and legislators neglected the nation's third-largest prison system, and conditions have steadily deteriorated from bad to terrible to catastrophic. By all accounts, they're getting worse.

By every metric, this department is in crisis, says Republican Sen. Jeff Brandes, of St. Petersburg, who chairs the budget panel that oversees prisons and who has toured lockups across the state. "It's a powder keg."

Staff turnover is at record highs, with so many unfilled jobs that some prison dorms have closed, resulting in staggering overtime costs to taxpayers to keep skeleton crews on duty. More than 4,400 employees left last year alone at a cost of about \$159 million, the agency says.

Violence is on the rise between inmates and by inmates against employees. Contraband is everywhere. Only about five inmates of every 100 get any chance to learn.

The physical and mental well-being of officers is a major worry, with high-ranking officers describing stress that leads to alcohol abuse and divorce. Inmates with Hepatitis C don't receive the treatment they need.

With starting pay for front-line guards at \$33,000 a year, Florida can't compete to hire or retain enough people to watch over an inmate population of about 96,000 that gets older and sicker by the day. A young officer can earn \$10,000 more a year working in a county jail, where it's safer and probably air-conditioned, too.

If state lawmakers do nothing else in the session that opens in January, they must confront the wretched conditions in Florida's prisons that they have perpetuated.

It won't be easy. It's an election year and a period of transition with new leaders taking charge amid fears of a recession that have stirred talk of the need to save more money, not spend it.

Besides, it's so easy to look the other way. Nobody cares about prisons, and politicians in Tallahassee don't work to get plaques for raising the base pay of prison guards. So the neglect continues.

This problem isn't new. In a landmark case in the 1970s, inmate Michael Costello convinced a federal judge to take over the system due to chronic overcrowding and health care deficiencies. Another judge dropped escape charges against inmates in 1980 be-



BY STEVE BOUSQUET

cause, he said, conditions at Florida State Prison amounted to cruel and unusual punishment.

Corrections is the largest state agency, with 25,000 employees. The taxes you pay are more likely to end up in a prison than

anyplace else. Most inmates aren't killers. Many are non-violent drug users. They will return to society, maybe to your neighborhood.

There are positive signs. In recent years, more legislators have made site visits to more prisons to see for themselves how bad things are. Social media provides a desperately needed forum for the families of inmates. Across the U.S., states are rectifying past mistakes and finding effective alternatives for non-violent offenders.

Gov. Ron DeSantis' corrections secretary Mark Inch wants about \$150 million in new money next year to attack decades-old problems of turnover, violence, addiction and recidivism. What made things worse, Inch said, was a decision seven years ago in former Gov. Rick Scott's first term to put guards on 12-hour shifts, which worsened stress and turnover.

As Inch made his request to senators this week, Brandes faulted him for not demanding more. Instead of asking for about 300 new positions, Inch was told he should demand thousands, and higher base pay for guards.

Inch didn't even mention recent acts of horrific violence inside the walls, such as the case of Cheryl Weimar, a 51-year-old inmate paralyzed from the neck down after a brutal attack by guards at Lowell CI, near Ocala.

Every decision in Tallahassee comes down to money, and Brandes says that if the state won't spend the money to hire enough people to staff prisons, the only option is fewer inmates. He supports releasing certain non-violent inmates after they serve 65 percent of their time.

Releasing non-violent inmates who have less than two years remaining on their sentences would save \$152 million, the amount needed for the agency's immediate needs. But that is a highly controversial idea with hard liners in the Florida House and where the next speaker, Rep. Chris Sprowls, is a former state prosecutor.

"It's catastrophic," Brandes says. "We have to find the money in the existing system."

Steve Bousquet is a Sun Sentinel columnist. Contact him at sbousquet@sunsentinel.com or 850-567-2240.

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Exhibit A

America's unjust war on weed

He's a prison lifer; today he'd be an entrepreneur

Eileen Rivers
USA TODAY

It was 2012, and Ferrell Scott was watching television inside Pennsylvania's Allenwood federal penitentiary when he learned that the sale of marijuana, something he was given a life sentence for just four years earlier, was becoming legal in Colorado and Washington state.

Scott had been struggling with depression since he was incarcerated in March 2008. But he felt a bit of hope as he watched the framework that had put people like him away without parole begin to crumble.

The country was changing, he thought. Perhaps that would mean a change on the federal level, too. Today, states and Washington, D.C., have legalized recreational use of pot. Scott, still incarcerated at 56, is angry about the hypocrisy.

"You would think that selling marijuana is the worst thing in the world because I was given a life sentence for it," he wrote to me from prison recently.

Scott and hundreds of other people of color have been living behind bars, watching businessmen like Kevin Murphy, the CEO of one of the nation's most lucrative marijuana companies, get rich. In the first quarter of this year, his company, Acreage Holdings, reported revenue of \$12.9 million.

The top tier of the legal pot industry is run almost exclusively by white men, and retailers, dispensaries and pharmacies nationwide are expected to take in nearly \$45 billion in revenue by 2024 from all cannabinoid sales, according to a study by Arcview Market Research and BDS Analytics.

Scott said he wasn't getting rich dealing pot, just trying to make a living for himself and his two kids. If Scott were selling large quantities of marijuana today, he might be on magazine covers hailing him as an entrepreneur. But because he was selling large quantities of pot a decade ago, he's a lifer.

A matter of black and white

Scott's story and the legalization movement highlight a stark reality: Whites have long been getting more of a break on dealing marijuana while blacks have been getting more frequently incarcerated.

The difference in the rate of pot use between whites and blacks in this country is nil. However, the difference in the rate of arrests and convictions is vast, according to data from an American Civil Liberties Union study. In states with the largest disparities, blacks were six times more likely than whites to get arrested for possession in 2010, the last year of the study.

About 84% of the more than 2,000 marijuana offenders who were federally sentenced in 2018 were people of color, according to the U.S. Sentencing Commission. Only 11% were white,

even though whites make up more than 60% of the U.S. population.

Scott has been in prison for 11 years on a third strike. Every day in prison gives him time to think about his biggest regret — not being there for his youngest children. One daughter, Serrell, was 15, and his son, Skyler, was entering his senior year in high school with a bright future in football when Scott was sentenced to life.

Ferrell Scott

Exhibit B-1

Friday, September 6, 2019

The monotony of daily prison life also gives Scott time to think about the arrest in Texas that led to his life sentence, and his decision not to take a plea deal.

Scott recalled that he was on his way to Skyler's football practice in 2008 when police pulled him over less than a mile from his son's school. Ultimately, he was found guilty of conspiracy to possess and intent to distribute more than 2,000 pounds of marijuana.

Scott said he had used a big rig truck to haul and sell marijuana after years of hauling legal freight failed to pay the bills. He also had a couple of men working for him doing the same thing, he said.

He was offered a plea deal — eight years in exchange for the names of others who worked with him selling drugs. He refused, opting instead to go to trial, never thinking that eight years could turn into a life sentence.

First Step and third strikes

The federal First Step Act, enacted last year, will now rescue people from receiving a mandatory life sentence on a third-strike drug charge. But people who are incarcerated for life today are likely to remain.

"I absolutely hate this place," Scott wrote in an email from Allenwood. "The only thing I have in common with the people here is that I'm locked up just like them; other than that we have nothing in common."

Scott applied for clemency, and the prosecutor in his case wrote a letter on the inmate's behalf, calling the life sentence excessive. The clemency was denied by the Obama administration in 2016. That decision sent him into a tailspin and caused him to write in a letter that he wished he were dead.

Still, Scott said he was thinking of the safety of his family and the future of his children when he decided to reject the plea deal. And even more important, he doesn't feel like he should have been in a position where a plea deal or life in prison were his only options.

"You see a lot of states making (pot) legal," Scott said. "I don't think I did anything any different."

Eileen Rivers is digital content editor for USA TODAY Opinion and editor of its Policing the USA site. This is the second installment in a series about prisoners serving life sentences for non-violent crimes. The series is being published in conjunction with the Buried Alive Project and its video-driven Letters from Lifers campaign. For more, go to lifers.usatoday.com

Exhibit B-2

OPINION A-5

June 5, 2019

The Gainesville
Sun

ESTABLISHED IN 1876
A Pulitzer Prize-winning paper
1965: JACK HARRISON
1971: NIG DAVIS

JAMES DOUGHTON | Publisher
DOUGLAS RAY | Editor and General Manager
NATHAN CRABBE | Editorial Page Editor

DIRECTORS
LISA McDONALD | Finance
KUSTY JACOBS | Operations
TERRY FRANKEL | Circulation
CHUCK MASON | Information Technology
AMY GRIFFITH | Advertising and Marketing

EDITORIAL

State should end unpaid inmate labor

Nearly a century ago, the state of Florida was supposed to have outlawed the use of state prisoners as forced labor.

As GateHouse Media's Ben Conarek recently reported, a loophole in the 13th Amendment abolishing slavery had allowed Florida to profit off forcing mostly black prisoners to work for private companies. But after hearings in 1923 revealed that men were being arrested on frivolous or petty charges, and then made to work off their debts in brutal conditions that included whippings and other torture, state lawmakers outlawed the practice known as convict leasing.

Yet today, as Conarek reported, unpaid labor is still an integral part of the Florida prison system. About 5,000 unpaid prisoners make up work crews used around the state by cities, counties, educational institutions and the Florida Department of Transportation. Inmates work long hours in the heat in exchange for some time off their sentences. They get limited rest breaks and food, risk injury and face punishment if they refuse to work.

Alachua County and the city of Gainesville had used unpaid inmates on jobs such as filling potholes, mixing concrete and moving grass, until their respective commissions ended the practice in recent months. But the University of Florida uses more inmate labor than any other college in the state, with inmates working at its agricultural research centers, which led to protests by Divest UP members at recent commencement ceremonies.

Florida is among just a handful of states that use unpaid inmate labor, all of which are southern and have disproportionately black prison populations. The practice should be discontinued by local governments and educational institutions as a way of pushing the state to abolish it outright.

Certainly there is a cost in doing so for the communities that have relied for the long on inmate labor. A former Citrus County commissioner told GateHouse Media that the tiny Panhandle county wouldn't be able to take care of its ditches, facilities and roads without the use of inmates.

Those jobs should be going to local residents at a reasonable wage. At least 49 jobs have been or are being filled in Alachua County and Gainesville as a result of their commissions ending inmate labor contracts, with the money that had been going to the Florida Department of Corrections from those contracts and other parts of their budgets being used to pay for them.

Inmates should not simply be unpaid labor, but instead should be able to gain skills and some money to help them readjust to the outside world once released.

Released Florida's recidivism rate — 33% at three years and 65% at five, according to the James Madison Institute — shows the need for such programs.

Unpaid inmate labor is a relic of the South's shameful past of slavery and Jim Crow laws that continued the subjugation of black citizens. Florida should abandon the practice and create a better way to give inmates an opportunity to develop skills that help keep them from ending up back in prison after being released.

The Gainesville Sun editorial board

Exhibit C

USA TODAY
FRIDAY, AUGUST 15, 2014

6A NEWS

OPINION

YEP, SLAVERY IS STILL Constitution has a loophole for prisoners. LEGAL Exception needs to go

Jim Liske

On Sept. 15, 1963, the bomb that killed four girls at the 16th Street Baptist Church in Birmingham, Ala., showed America just how far we had to go to fulfill the promise of justice and equality for all, even a century after the 13th Amendment ended slavery. Half a century after the bombing, the struggle is not over, in part because language in that same amendment still undermines the equal humanity of more than 7 million Americans who have been convicted of a crime.

Ratified at the end of the Civil War, the amendment abolished slavery, with one critical exception: slavery and involuntary servitude actually remain lawful "as a punishment for crime whereof the party shall have been duly convicted." In other words, according to this so-called punishment clause, if you get pulled over with the wrong controlled substance in your trunk, there's nothing in the 13th Amendment to ensure you can't be considered a slave of the state.

The punishment clause was taken directly from the Northwest Ordinance of 1787 and reflected the belief of the time that hard work was essential to prisoners' moral rehabilitation. But the language was also ambiguous enough to be grossly abused. Soon, the clause was being used to reinstitute slavery under another guise.



GERRY BROOME, AP

People line up in June to see a duplicate of the 13th Amendment at an exhibit in Raleigh, N.C., on abolishing slavery.

EXCUSE FOR NEW ABUSE

In 1866, just a year after the Civil War, a black man convicted of theft in Maryland was advertised for sale in the newspaper as punishment. "Vagrancy" — code for being young, black and unemployed — could yield similar results.

Decades later, famed abolitionist Frederick Douglass described how the widespread "convict lease system" exploited the punishment clause to subvert the noble intent of the 13th Amendment: "(States) claim to be too poor to maintain state convicts within prison walls. Hence the convicts are leased out to work for railway contractors, mining companies and those who farm large plantations. These companies assume charge of the convicts, work them as cheap la-

13TH AMENDMENT

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

bor and pay the states a handsome revenue for their labor. Nine-tenths of these convicts are negroes." Douglass went on to note that so many blacks were behind bars because law enforcement tended to target them.

Importantly, Supreme Court decisions of the 20th century ensured that no one today is sentenced to actual slavery as a form of criminal punishment, but

Exhibit D-1

USA TODAY 6A
August 15, 2014

shades of Douglass' critique still ring true. Black men are incarcerated at six times the rate of white men, thanks in part to uneven enforcement and sentencing in the "war on drugs." While drug use rates vary little among racial groups, people of color stand a much better chance of being searched, prosecuted and convicted than whites, and government studies have found that they serve longer sentences.

Racially imbalanced enforcement also means that minorities are more likely to suffer consequences that outlast their sentences: difficulty finding jobs and housing, lost access to government benefits and, in some places, disenfranchisement.

Next year, the United States will mark the 150th anniversary of the abolition of slavery when

at the cost of 600,000 lives, we concluded that all people, regardless of color, are made in the image of their creator and that slavery is an abomination. Not just because it compels labor, but because it denies the full dignity and value of the enslaved person.

As long as it remains in the Constitution, the punishment clause is an offensive vestige of the legacy of dehumanizing and often racist practices in the American criminal justice system.

NO LESS HUMAN

Breaking the law does not make the 7 million Americans behind bars, on probation or on parole any less human. While it's true that offenders properly forfeit certain rights and privileges, including their freedom, they also

retain many others carefully laid out in the Bill of Rights and elsewhere. By definition, slavery goes far beyond the removal of freedom; it denies the humanity of the enslaved. Why should language that calls into question the basic equality and dignity of millions of Americans persist in our country's Constitution?

Meaningful work can be part of a restorative corrections policy. Many prisoners need to learn skills that will make them employable after release. Prison jobs also help people maintain a sense of purpose and structure during long sentences. Society as a whole also benefits when prisoners' labor allows them to pay restitution. But slavery — labor that dehumanizes one person for the profit of another — has no place in prisons or in the Constitution.

We need a national dialog about amending the 13th Amendment. Current implications of the punishment clause should be the talk of every college course in criminal justice. It should be debated in every state legislature and in the halls of Congress. Here, in the home of nearly a quarter of the world's prisoners, every American should know about the scandalous persistence of slavery in our nation's most fundamental document.

Afterward, to paraphrase British abolitionist William Wilberforce, we can choose to look the other way, but we can never say again that we did not know.

Jim Liske is the president of Prison Fellowship.

IN THE CIRCUIT COURT, THIRD
JUDICIAL CIRCUIT, IN AND FOR
SUWANNEE COUNTY, FLORIDA

STATE OF FLORIDA,

Case No. 79-14-CF


v.

EDDIE J. McKINNEY,
Defendant.

ORDER DENYING "MOTION TO CORRECT ILLEGAL SENTENCE"

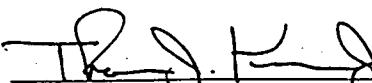
THIS COURT, having examined the above-styled Motion filed by the Defendant on November 26, 2002, finds that:

The Defendant claims that his imprisonment for life is illegal as it is an indeterminate sentence. The Defendant argues that the meaning of the word 'indefinite' in Article 1, Section 17 of the Florida Constitution has the same meaning as the word 'indeterminate'.

The term 'indeterminate' does not have the same meaning as 'indefinite' as applied to the Florida Constitution or sentencings in the State of Florida. A person's lifetime is a definite period of time, consisting of the time between birth and death. This is a fixed definition for every person. The amount of time in each person's life is indeterminate because the time of one's death is not known until after it occurs. The Defendant was sentenced to a definite period of time, his natural lifetime. While that period of time is indeterminate, it is not indefinite. A life sentence shall end at a definite time, then end of the natural life of the Defendant. 

THEREFORE, Defendant's motion is **DENIED**.

DONE AND ORDERED in Madison, Madison County, Florida, this 30th day of ~~January, 2003.~~
December 2002.


THOMAS J. KENNON, JR.
Circuit Judge

NOTICE: DEFENDANT IS HEREBY INFORMED OF THE RIGHT TO APPEAL THIS ORDER WITHIN THIRTY (30) DAYS OF ITS RENDITION

Exhibit E

WIZARD OF ID

by parker and hart

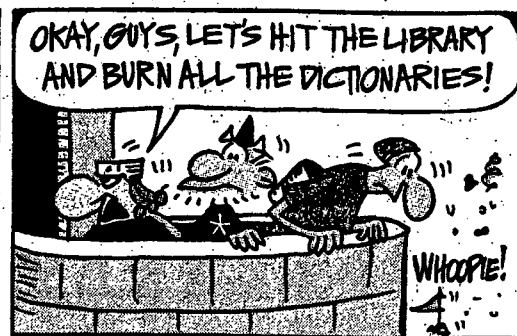
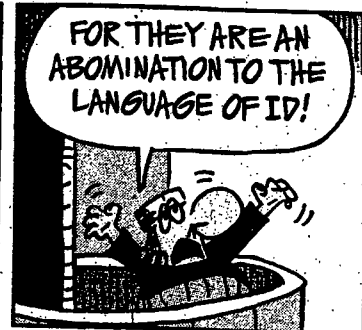
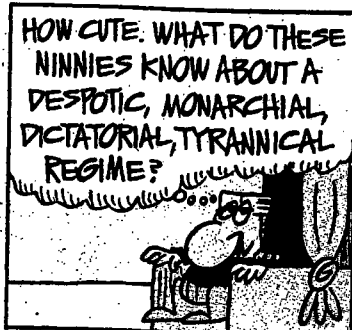
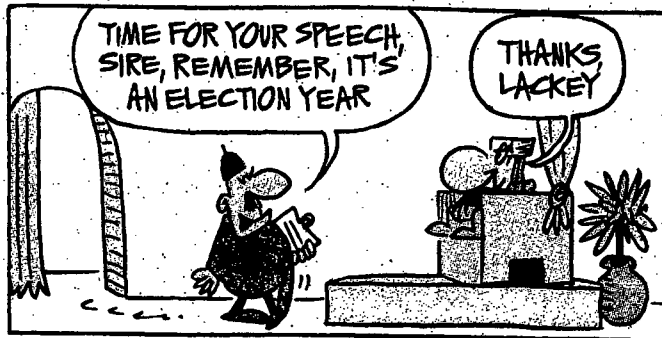


Exhibit F