

Michigan Lifers Association, Inc. and National Lifers of America, Inc.

Michigan

Lifers Report

FEBRUARY 2022

Newsletter

LIFE SENTENCES WITHOUT THE POSSIBILITY OF PAROLE IN MICHIGAN MAY BE ILLEGAL (Part 3 of 3, Conclusion)

Willis X. Harris

To reiterate, Michigan's first degree murder statute, MCL § 750.316; MSA § 28.548, does not limit a life sentence which must expire after serving 20, 25, 30, or 50 years, but the life sentence under MCL § 750.316; MSA § 28.548 goes into infinity, that is, 100 or 500 years into the future and such a sentence is longer than any lifer's life expectancy who have already served between 35 and 55 years incarcerated as a "BLACK SLAVE".

In *People v. Cooper*, 236 Mich. App. 643, 661 (1999), this court held that the Michigan Constitution of 1963, Article 4, Section 46, empowered the legislature to impose an "Indeterminate" and "Determinate" sentence as punishment for crimes and for the detention and release of persons incarcerated or detained under such sentence as long as the sentence does not violate ... any provision of either the Michigan Constitution or federal law. *Id.* at 663-664.

The Michigan Legislature, in exercise of its power to provide for the length of imprisonment, has distinguished between MCL § 769.28; MSA § 28.1097(1), that is, crimes for which the punishment is one year or less or MSA § 28.424(4), that is, a two-year determinate sentence for possession of a firearm; as opposed ... (Cont. on p. 3)

Highlights

Open Letter.....	p. 2
Shake Off Those Shackles...	p. 4
Words From The Women.....	p. 5
Macomb County.....	p. 6
Deserving Of A Second.....	p. 7
Black History Month.....	p. 7
The Adolescent Redemption...	p. 8
A Need To Refocus.....	p.10

Michigan Lifers Association, Inc.
4417 2nd Ave., Ste. 211
Detroit, MI 48201-1214

National Lifers of America, Inc.
P.O. Box 18023
River Rouge, MI 48218

Willis X. Harris
President
Michigan Lifers Association, Inc.

Gina DeAngelo
Executive Assistant
Michigan Lifers Association, Inc.

Carlton Banks
Chairman, National Board
National Lifers of America, Inc.

Jamie Meade
Editor

Tyrone Reyes
Co-Editor

Writers

Steven Benjamin
Eddie Gee
Dwight Henley
Temujin Kensu
Richard Kilbourn
Bruce Micheals
Sybil Padget
Joshua Puckett
Joseph Richmond
Raymond Walen

Cartoonist

Terry Young

Send articles to:

Michigan Lifers Association, Inc.
Attention: Willis X. Harris
4417 2nd Ave., Ste. 211
Detroit, MI 48201-1214
(Limit articles to 600 words)

OPEN LETTER TO THE MICHIGAN PAROLE BOARD

TELL ME WHY?

Dear Parole Board,

My name is Jacqueline Novak from Grand Haven, Michigan. My father and some of his childhood friends are incarcerated in your unjust correctional system. My father has been in prison since 1980, the year I was born. He is now in his 70's and serving a parolable life sentence. He has gotten four "Notice of Parole Board Action" repeatedly stating "NO INTEREST". No reasons are given for these decisions. I now ask you: Why?

My father told my mother and me, prior to this COVID-19 pandemic, there are many elderly men who are over 70 years old where he is in Coldwater. After COVID-19 spread, he said he saw some men crying because they have been incarcerated over 40 years and did not want to die in prison. Many of them say they are innocent.

Some of these men and women are parolable lifers. I know of two women at the Women's Huron Valley prison in Ypsilanti. Also, some have mandatory life sentences and they can only be released if recommended to the Governor for commutation. In addition, a few have "crazy" minimum sentences like 50, 70, and 80 years. They, too, fear dying in prison. Yet, you could care less about recommending any sentence reduction to Governor Gretchen Whitmer. Why?

I have several final questions to ask each of you: (1) What are you trying to accomplish or prove with prolonging incarceration for men and women who have served over 30 years? (2) Does it bother you that you are contributing to the destruction of families by prolonging the release of a parent--mother, father, or grandparent? And, (3) Do you care people are dying of COVID-19 in prison?

Let me remind you, not every convicted lifer is guilty of the crime that sent him or her to prison, regardless of what the record may say. Look at how many Michigan prisoners have been exonerated in the last 3 years. How do you know you aren't letting an innocent man or woman die?

Jacqueline Novak
South Ferry St.
Grand Haven, MI 49417

(Life Sentences, from p. 1) ... to MCL § 750.316; MSA § 28.548, that is a life sentence. Pursuant to MCL § 769.9(1), the Michigan Legislature has determined that the provision of the indeterminate sentencing statute shall not apply to persons serving "mandatory life" offenses.

The imposition of a mandatory life sentence without the "possibility of parole" is not within the constitutional grant of authority to the Michigan Legislature under the Michigan Constitution of 1963, Art. 4, Sec. 46. The determinate sentence provision and the indeterminate sentence provision under the Constitution of 1850, Art. 4, Sec. 47, Constitution of 1908, Art. 5, Sec. 28, and the Constitution of 1963, Art. 4, Sec. 46, has never authorized the Legislature to enact any statute providing for a "penalty of death" like the mandatory, non-parolable life sentence which expires "ONLY" after a person's death.

The Michigan Supreme Court held in *In Re Brewster St., Housing Site*, 291 Mich. 313, 333; 289 N.W. 493 (1939), "In passing upon the constitutionality of state legislation, it is necessary to point out in the Constitution of the State the limitations which have been placed by the people through the Constitution upon the 'power' of the legislature to act...."

The first-degree murder statute, i.e., MCL § 750.316; MSA § 28.548, under the penalty phase must be found and declared to be unconstitutional because specific limitations, contained in the Constitution itself, restricts legislative power. The Michigan Lifers Association, Inc., finds such a limitation is clearly mandated by Michigan's "new" Constitution of 1963, Art. 4, Sec. 46, which prohibits enactment of any "statute" providing for the "penalty" of "death". The Constitution empowers the

legislature to enact laws unless it has been prohibited. The Michigan Supreme Court held, "In declaring a statute unconstitutional, a court must be able to (lay its finger) on the part of the Constitution violated, and the infraction should be clear, and free from a reasonable doubt." See, *Bowman v. Sheehan*, 242 Mich. 95; 210 N.W. 69 (1929).

In *People v. Legree*, 177 Mich. App. 134, 143-144 (1989), the Court of Appeals struck down, as impermissible, a 150 to 500 years sentence, because said sentence cannot be said to be an indeterminate sentence; rather, the court said, it is clearly nothing more than a determinate sentence. Therefore, *People v. Legree*, verifies that Sec. 46 does not authorize a sentence ending in death. Why did the court reject a 150 to 500 year sentence as being impermissible? It is because a person convicted of second degree murder will not live to serve a 150 year minimum imposed as an indeterminate sentence under Sec. 45 of our 1963 Constitution or pursuant to MCL § 769.9(1). If the Michigan courts truly believe a 150 to 500 year sentence is too severe for taking a human life, how, then, does the court justify imposing a mandatory, non-parolable life term for taking a human life? A life sentence under the penalty phase of MCL § 750.316 is ten times greater than the maximum sentence imposed in *Legree*, i.e., 500 years, and nothing more than a "death sentence", for taking a human life. (Emphasis added by the Constitution of 1963, Article 4, Section 46).

Based on the facts, laws, and court decisions, it is concluded that a life sentence in Michigan without the possibility of parole is illegal on its face and an affront to the Michigan Constitution of 1963, Article 4, Section 46.

SPECIAL THANK YOU TO THE CHIPPEWA CORRECTIONAL FACILITY
NATIONAL LIFERS OF AMERICA CHAPTER FOR THE
VERY GENEROUS DONATION OF \$500 TO THE MLR NEWSLETTER.

SHAKE OFF THOSE SHACKLES

Bruce Micheals

Although you are in prison, prison does not have to be in you. I learned that valuable lesson after spending 10 out of my first 12 MDOC-years in maximum security, but I eventually got the message. Back then I was institutionalizing myself without even realizing it, and the result was obvious to all who had the least bit of common sense.

Eventually, I began to understand that getting out--and staying out--of prison is the goal. I didn't understand that earlier in my bit, and that is why I was drifting further and further from ever getting out. I was like a basketball player who is chasing personal stats rather than trying to win a championship. I literally woke up each day thinking about how to get money IN prison, rather than how to get OUT of prison. I had the game mixed-up.

Living in prison with not one, but two, natural life sentences was difficult. I won't lie. There were plenty of times that I wondered how I would ever get out. At a certain point I almost didn't even care about getting out, and at that point I placed my hope in Christ because I didn't know what else to do. From there I simply tried to draw closer to Him. In doing that I discovered a new purpose for my life.

Soon I became hungry in a way that I had never been hungry before. I wanted to learn and help others as I learned. I didn't realize it at the time, but I was shaking off the shackles of institutionalization. I was learning how to think for myself, rather than mindlessly repeating prison-talk, going nowhere. I was working on getting out--and staying out--of prison.

Since then, I have participated in many prison programs. I even designed and coordinated programs with my friends. At facility after facility, we developed programs and skills and connections. Our most recent program, described below, is helping more people than ever to shake off the shackles.

Program Summary

The Prison Experiment for Education and rehabilitation (PEER) is a collaborative effort between incarcerated and free citizens. Through PEER prisoners are challenged to advance education and rehabilitation in prison using whatever resources are available; meanwhile, outside volunteers provide guidance, support, and encouragement to produce creative prison programs that foster independence and self-esteem.

Quarantine Courses, the most recent PEER program, included 10 print-based courses that were designed by prisoners in 2020. The program tested the market at Muskegon Correctional Facility (MCF) to determine whether the prisoners were interested in completing free, independent study courses. With 240 course completions between January and march, of 2021, the course designers concluded that significant interest in print-based programming existed at MCF. Now, a new line of courses are being designed by the group.

PEER Courses is slated to feature over 100 titles ... (Cont. on p. 5)

WORDS FROM THE WOMEN AT THE HURON VALLEY CORRECTIONAL FACILITY

"WHAT FREEDOM MEANS TO ME"

Freedom is like the innocence of childhood. When I was a child I had no worries. I didn't have the adult trials of working, relationships or duties. I felt free as a child. -- Janel Boer

Freedom to me means being able to openly love, comfort, and support another human being, without the constant fear of a sexual misconduct (Class I ticket). Thus, only resulting in 60-90 days loss of priveleges. -- Sybil Padgett

Freedom means to me to never give up on yourself when things go wrong. It's the recognition of healing and of forgiving those who have hurt you. It's taking responsibility for the wrongs that I've done in my past... to be able to make amends with those people. Also, being proud to be an African American/bisexual woman. -- Kelly McBride

Freedom is knowing the future is changing everyday for better or worse, it changes for us all. -- J.S.

Freedom to me is being able to practice my religion openly and to be able to know this is all temporary for me... even serving a LIFE sentence. -- D. Johnson

Freedom to me is being able to purchase the things I need for survival. Many times I've used state soap to even brush my teeth. Freedom is knowing someone cares. -- Shanika B.

Freedom is all we need to be who we really are inside. Expressing one true self and doing what you love. -- J. Higley

(Shake Off Those Shackles, from p. 4) ... in both academic and self-help/how-to categories. The new PEER program is intended to function in or out of quarantines, and it can be extended to prisoners in administrative segregation and high or maximum security. The logistics of the program are fairly simple:

1. PEER facilitators design and distribute courses.
2. PEER students complete and return the courses to be checked.
3. The checked courses are mailed to outside sponsors.
4. The sponsors print and mail certificates to the students.
5. PEER facilitators encourage students to complete more courses and to design new courses.

The PEER program is currently expanding its catalog of courses, recruiting more sponsors, and considering options for operating in other facilities. Shake off those shackles by considering how you might establish a similar program in your unit or at your facility.

ABOUT THE AUTHOR: Bruce Micheals #208666, a former lifer, is author of several books such as Rehabilitation in Prison, How To Write a Parole Plan, and Success in Prison, 2ed. Bruce was awarded a master's degree from California State University in 2021, and he is housed at the Muskegon Correctional Facility (2400 S. Sheridan Dr., Muskegon, MI 49442).

MACOMB COUNTY STARTS CONVICTION INTEGRITY UNIT

Willis X. Harris

On January 24, 2022, Macomb County Prosecutor Peter Lucido and Gail Pamukov announced their intent to establish a Conviction Integrity Unit (CIU) within the Macomb County Prosecutor's Office to investigate the illegal detentions and imprisonment of Macomb County (Michigan) citizens.

Not many Michiganders want to believe there are hundreds--possibly thousands--of innocent men and women incarcerated for crimes they did not commit. Michigan has a long history of false arrests, convictions, and sentencing citizens to prison terms, including life sentences, solely on the testimony of unsavory law enforcement officers and so-called expert witnesses minus any on-scene witnesses, evidence, fingerprints, and other forensic evidence, such as, hair, blood, semen, footprints, and clothing.

In fact, many innocent prisoners cannot even be placed at the crime scene or in the vicinity of the crime, but still arrested on suspicion based on manner of dress, hairstyle, facial features, language, grammar structure, and skin tone or complexion, if it is consistent with the area.

There are many innocent people who have their legal, civil, and constitutional rights violated daily when stopped, questioned, and mishandled by policemen who may or may not be aware of their multiple violations and/or infractions.

In Wayne County, many residents don't know their legal, civil, or constitutional rights, and this gravely disadvantages them when they are stopped and questioned by police officers. Plus, if policemen detect a person may be mentally ill or mentally challenged, they may attempt to take advantage of them convincing them to confess to crimes they have no knowledge of, to handle firearms, knives, or other objects in attempt to get fingerprints to submit to the prosecutor's office as evidence to obtain search warrants and arrest warrants. The integrity of many police officers' conduct has been called into question in the last decade or so.

It is encouraging to see some of these innocent imprisoned men and women exonerated, many of whom have served between 25 and 50 years, years they can not relive. Fortunately, those who have spent years in prison and have been exonerated will be compensated at \$50,000 annually for every year they unjustly served. Those who have serious police misconduct that led to their unlawful conviction can also seek civil damages against the police officers and department for civil rights violations.

"There are many innocent people who have their legal, civil, and constitutional rights violated daily when stopped, questioned, and mishandled by policemen..."

Peter Lucido and all Michigan county prosecutors should start Conviction Integrity Units and should open Innocence Clinics in every county. Talk with state lawmakers and get the ball rolling.

DESERVING OF A SECOND CHANCE

THIS ISSUES FEATURED LIFER: DAVID (DAWUD) MCGIBBON

David (Dawud) McGibbon (Prison No. 189043) was born in Kingston, Jamaica, in 1962. He came to the United States (i.e. Detroit, Michigan) with his mother in 1973. His mother worked as a nurse in a Detroit hospital. Dawud attended Detroit Central High School where he was all-American track and field runner. Dawud is the father of 6 children, 4 girls and 2 boys. Although incarcerated, he has remained relevant in their lives and very close to them.

In 1990, at the age of 28, Dawud was charged with first degree murder and several additional crimes. In 1991, he was convicted and sentenced to life without the possibility of parole (LWOP), also known as death-by-incarceration. Dawud maintains he is innocent of the crimes he is convicted of.

Dawud is a devout Muslim. He is very active in the Muslim community inside and outside of prison. Dawud talks to and mentors young men who enter prison in attempt to show them there is a better path in life beside that of crime. Dawud involves himself in self-help programs, such as, the Chance For Life program, Alternative to Violence Project-Michigan, Financial Management class, etc.

If given a second chance, Dawud would like to start a non-profit organization, "One Prisoner Reform", to help troubled youth in Detroit steering them away from the path of crime and the pipeline to prison through promoting education, spirituality, and athleticism. David (Dawud) McGibbon is deserving of a second chance, God willing.

CELEBRATE

BLACK HISTORY MONTH

In the 1850s, Sojourner Truth fought to end slavery through her speeches. She was born sometime around 1797 in Ulster County, New York, and given the name Isabella Van Wagener. She answered what she felt to be a religious call to "travel up and down the land," so she took the name Sojourner Truth. She became a fervid abolitionist, a powerful preacher, and a strong proponent of the women's rights movement. She sang, debated, and preached wherever she could, at churches, on street corners, and at revival meetings. We remember Sojourner Truth as a freedom fighter and a pioneer to the civil rights movement.

"We must develop and maintain the capacity to forgive. He who is devoid of the power to forgive is devoid of the power to love. There is some good in the worst of us and some evil in the best of us. When we discover this, we are less prone to hate our enemies."

-Martin Luther King, Jr.



The Adolescent Redemption Project

A Campaign for Mercy

Stephen Silha & Pauline Thompson

The Adolescent Redemption Project (TARP) is a 501(c)(4) non-profit organization. We are comprised of attorneys, social activists, social workers, journalists, inmates, and members of the community who believe in our mission.

Our mission is to combat the mass incarceration of youthful offenders (age 14-25). This will be done by educating the public and directly influencing government officials to change sentencing and release laws. We advocate for the men and women who have proven they are willing to pay all that forgiveness costs. We do this through drafting and proposing bipartisan legislation to state and local elected officials, judges, and prosecutors.

Making a mistake and learning from it is something we consider to be a quintessential human lesson. It is the growth from these lessons that equip us with wisdom from which we contribute back to society. As optimistic people, we do not define ourselves by our mistakes, but by the subsequent improvements we make as a result. This is the very act of forgiveness.

The American penal system is overwhelmed by the sheer volume of aging adolescent offenders who it has deemed fatally reprehensible. Mandatory life sentences have denied thousands of men and women a chance to rise to a greater height. TARP is a campaign for mercy. We stand to humanize the men and women who have dedicated their lives to pursuing atonement.

While TARP is still relatively a new organization, we have solidified our position in Michigan as one of the more pro-active criminal justice reform organizations through grass-roots organizing with families of loved ones incarcerated and through political activism.

TARP has successfully campaigned for pro-mercy candidates running for judgeship, county prosecutor, and legislative office. TARP, along with the National Lifers of America (NLA), drafted the proposed "Second Look Sentencing Act" bill that has gained statewide attention. TARP and the NLA successfully co-hosted the October 14, 2021 Criminal Justice Reform Rally to End Mass Incarceration in Michigan. TARP has officially joined MI-CEMI (Michigan Collaborative to End Mass Incarceration) establishing a working relationship with other state criminal justice reform organizations. TARP has obtained an Affidavit from renowned adolescent development psychologist Laurence Steinberg which TARP Vice-President and attorney Laurel Kelly Young used as an exhibit in an amicus curiae brief filed in the People v. Poole case supporting our argument that life without the possibility of parole (LWOP) should not automatically be imposed on any one 25 and under without a mitigation hearing. The Poole case is pending in the Michigan Supreme Court and set for oral arguments in the early part of March 2022. Laurence Steinberg, based on new brain science, now supports raising the age to 20 years old.

TARP has also developed a Village that meets once a ... (Cont. on p. 9)

(The Adolescent Redemption Project, from p. 8) ... month online. It is a way we have developed community that has attracted many people across the state and country interested in changing the laws to consider the science of brain development. During Village meetings we have incarcerated men and women call in and introduce themselves to the Village. This allows people in society to hear directly from those men and women who were adolescents when sentenced to LWOP in prison. If you are interested in joining our next TARP Village meeting please go to <https://www.AdolescentRedemptionProject.org/village/> for more information.

TARP has also created a Podcast where our host Emma Axtell interviews incarcerated men and women, psychologists, attorney, advocates, family members, etc. You can listen to these interviews on our website.

In addition, TARP is the first Michigan criminal justice reform organization that has developed a Voting Bloc. The Redemption Voting Bloc restores the power to our communities and is our greatest asset. It is a coalescence of voices that demands justice reform. It influences politicians by proving that we will no longer support candidates who do not take action on the issues that affect us. Your voice is powerful beyond measure, and it's time to put it into action. You can register for our Redemption Voting Bloc on our website.

There are many ways you can become involved with TARP in bringing about change in Michigan's criminal justice system. You can follow us on social media, talk to your friends and family about our mission, contact your state representative and senator, contribute to our group blog, sponsor a lifer from our website, sign-up to be a volunteer, and participate in our TARP Village meetings.

You can contact us by mail at The Adolescent Redemption Project, 847 Sumpter Road PMB 16701, Bellville, MI 48111. We also invite you to learn more about TARP by visiting our social media sites. Help us bring about real criminal justice reform to Michigan.



support@adolescentredemptionproject.org



www.AdolescentRedemptionProject.org



@TARP4Mercy



The Adolescent Redemption Project



@AdolescentRedemptionProject

ABOUT THE AUTHORS: Stephen Silha is secretary of the TARP board. A former journalist for The Minnesota Star, The Christian Science Monitor, and other publications, he co-directed the documentary BIG JOY: The Adventures of James Broughton and has worked for the United Nations in Vienne, Austria. He co-founded Journalism That Matters, a think tank on the future of journalism.

Pauline Thompson is also a TARP board member. In addition, she is a state board member for the National Lifers of America. She has been advocating on behalf of those incarcerated in Michigan for over 20 years.

A NEED TO REFOCUS

Prisoner Job Training & Placement

Dwight Henley

About a decade ago, the Michigan Department of Corrections (MDOC) made a shift toward providing prisoners vocational training and finding them jobs. As a part of this shift, the MDOC implemented new vocational trade curriculums, focused its vocational offering on high demand trades, and enhanced the level of training. To facilitate these changes, the MDOC created vocational villages, instituted employment counselors, and developed the Employment Readiness program. Vocational villages are units within certain prisons that house only prisoners involved in vocational trades. The Employment Readiness program provides not only the foundational skills for computers, job search, and personal finance, but it also requires prisoners to create job resumes for use upon release. To locate employment opportunities for prisoners, Employment Counselors utilize the Looking Glass program, a computer search system that highlights job openings across Michigan. Through the employment process, prisoners can obtain a State recognized Certificate of Employability.

The MDOC's shift stemmed from a recognition that increasing a prisoner's skill level increases the person's marketability and employability. This shift reflected a realization that prisoners with marketable skills, a financially rewarding job, and an understanding of personal finance would less often commit crime. And this line of reasoning came to fruition. These programs helped the MDOC substantially lower the recidivism rate in Michigan from above 40 percent to below 30 percent.

Over time, however, these programs got streamlined, Employment Counselor positions were cut, fewer prisoners were given access to vocational trades, the trade programs began focusing more on book-work than on developing hands-on skills, the Looking Glass program was rarely utilized, and job placement became almost nonexistent. In sum, the vocational training and employment process became more a function of process than of substance.

Before recidivism rates begin to rise again from the MDOC streamlining vocational programming and the employment process, the Department needs to refocus on enhancing the substance of its vocational training programs and job placement. This means the MDOC needs to enhance, not reduce, the amount of time a prisoner spends in and the level of skill developed while earning a trade. The MDOC also needs to increase the number of prisoners that are offered trades. Just as important, the MDOC needs to reinstitute employment counselors, to once again utilize the Looking Glass program to find job openings for prisoners, and to begin creating resumes for specific job leads. Lastly, the MDOC needs to expeditiously implement new job training programs that match the 10 million current job openings reported in the latest Jolts report.

ABOUT THE AUTHOR: Dwight Henley (Prison No. 246521) is serving a LWOP sentence at Macomb Correctional Facility, 34625 26 Mile Road, Lenox Twp., MI 48048. Dwight obtained a MBA from Adams State University and is educationally eligible to take the CPA exam.

SUBSCRIPTION FORM

The expressed purposes of the Michigan Lifers Association, Inc. and the National Lifers of America, Inc. to publish the "Michigan Lifers Report Newsletter" are to educate and uplift the lifer population, to seek changes in laws that restrict clemency and parole, to educate the general public, and to encourage criminal justice reform, especially in corrections.

PRISONERS

PRISONER'S FULL NAME: _____ Number: _____

NAME OF CORRECTIONAL FACILITY: _____

COMPLETE MAILING ADDRESS: _____

CITY: _____ STATE: _____ Zip Code: _____

CIVILIANS

NAME: _____

ADDRESS: _____ APT. _____

CITY: _____ STATE: _____ Zip Code: _____

PHONE NO. () _____

SUBSCRIPTION RATES

(Yearly Subscription 10 to 12 Issues)

PRISONERS: _____ \$15 Yearly CIVILIANS: _____ \$20 Yearly

ORGANIZATIONS: _____ \$25 Yearly LIFE MEMBERS: _____ \$100

DONATIONS: _____

SEND SUBSCRIPTION PAYMENTS & DONATIONS TO:

Michigan Lifers Association
4417 Second Ave.
Suite 211
Detroit, MI 48201-1214

