

TO: The Michigan Humanities
Collaboratory; Carceral State
Project (Conditions Team)

From: Jack S. Copeman

Re: Self-Initiated Initiative,
The Coronavirus Experience:

THE QUARANTINE CRACK-UP

Dear Reader,

By now you should be familiar with the intent and purpose of my papers. After all, this is the ninth installment of what I propose to be a series of reports explaining what my experience has been like during the COVID-19 Pandemic while incarcerated. Exercising my voice as events and circumstances develop on both sides of the blue and orange fence. So here goes another dispatch from SRF (Saginaw Corr. Facility) that you ^{may} find informative. I hope so, anyway.

If I Die In A Corrections Zone... (No. 9)

It is the beginning of June and the Nation is going through the trials and tribulations of social and political unrest. As the current turmoil is nothing new in one sense, the death of a black man at the hands of the police, it is different this time not only by the clear, unmistakable murder of George Floyd, there can be no doubt, but it is the size, the spread, and ultimately the common cause of the backlash that has everyone energized to stop this practice in America. For the past week and a half, we have watched the protests, the vandalism and fires, the looting and police response, and we were amazed, sickened, and depressed over all of it!

I mean seriously. This again! As there must be a thousand questions related to all this violence and mayhem, but the main one has to be will this time finally bring about change?! I'm sure that's what we would all like to know first and foremost. Will it stop?

Listen, I am almost in my mid-50s (54½) and I have been incarcerated for a long

long time. Going all the way back to November 1991, within just a few months of my return from the first Gulf War. As I'm a "Desert Storm" vet, having served a tour of duty with the Michigan Army National Guard from January - May of that year.

And after my return to the States, well... I started having some serious problems with life. Eventually ending up in jail. Going through the criminal justice system.

Later, in 1992, there was 12 of us gathered around the dayroom television watching the video footage (yes, even back then people recorded police brutality) of the Rodney King beating. As the L.A. cops worked him over with night sticks along the freeway. Beating him into a giant bruise with multiple broken bones. The officers were charged but a jury found them not guilty, setting off riots and looting for a week or so.

Please note that this was at the beginning of my sentence, actually, my sentence hadn't even started yet. Now that I'm nearing my E.R.D. (Earliest Release Date), it seems as things have come full-circle, albeit with a Michael Brown in Ferguson and an Eric Garner

in Jersey and no doubt thousands of others somewhere in-between. That truly is the symptom of our inherently racist Country just expressing itself.

But who knows... maybe now things will be different, especially after all that we've been through with the unrest, the violence and mayhem.

And on top of all that—we're still in the middle of a pandemic. A highly contagious one that is spread through close contact, yelling and screaming, and through aerosols, such as smoke from tear-gas. So there's no doubt the numbers are going to go up. It's just a matter of time, the lag between exposure and symptoms or asymptomology. This will certainly be next. A spike in cases.

(Fri 6/5/20) The U.S. coronavirus death toll has just surpassed 107,000. While the State is nearing 60,000 positive cases with nearly 6,000 deaths. The Governor feeling the rate of growth has been contained enough to lift her Stay-At-Home order and open up certain businesses that are not essential. ~~For~~ Dog grooming for instance.

According to the breakdown I saw on television, my age group (45-59) makes up 17.5% of fatal cases to COVID.

MI-CURE. (Mich Citizens United for the Rehabilitation of Errants) There are organizations that were created specifically for advocating the cause of the disenfranchised and the powerless; giving cause to issues such as prison conditions or human rights and legal assistance. (See MI-CURE News, p.4) MI-CURE is one of these groups that provides us with a quarterly publication of happenings around the world, country, and state pertaining to CJ matters. The newsletter they provide to many of us is akin to USA TODAY for keeping up on information. So... MI-CURE NEWS is truly a regular staple around every prison in the MDOC, being there are many thousands of us that subscribe for obvious reasons, you literally could not find dozens of copies being delivered whenever they drop.


The May issue of MI-CURE News has arrived and there were some interesting sections that I'd like to share with you. The first few pages, anyway. Highlighting items on the theme of my topic,

Coronavirus, so that you can see for yourself the problems faced by the incarcerated.

As well as providing you with a list of already established, independent organizations that may provide your carceral project with source information or resources.

Please read it at your leisure, you may find it thought provoking and educational.

That is my intent, anyway.

 Doldrums in the Penitentiary. For the past three months there have been no special events, no outside guests, no programs, no PBF fundraisers, no college classes and of course, no visits from our friends and families.

This has made doing time even more boring and dull than before. I mean that it cannot be understated how exceptional this really is — an almost completely monotonous existence where we are not receiving enough stimulation. That we feel cut-off and isolated from loved ones, from information and assistance, well... all of this simply becomes ever more punitive, ever more stultifying, ever more torturous!

Yesterday, as a matter of fact, I was required to report to the school building

in order to return the college textbooks that my classmates and I had been using for Winter semester. Being part of the few involved with the Second Chance Pell Grant program started under Pres. Obama. We had just begun our second year of an associates degree in small business management. And then the pandemic reached Michigan in March, so we only made it about halfway through before everything was put on hold. Now we are unsure about what's next and when? Asked the question but the Programs Coordinator lady seemed unsure about anything. So it doesn't look good. Forget distance learning or "virtual classrooms." The Department is run by a bunch of pig-headed Luddites that talk a good game of progress and all that... yet are always opposed to bringing technology into the Land of Punishment. That's how they really feel about it, you know. Convicts shouldn't get anything but a hard time — let alone an education! **OMG!** Damn liberals!

Remember, I was around in the mid-90s when the whole "get tough on crime" vibe was giving Republicans like Newt Gingrich and John Engler more boners than

Viagra or Ayn Rand novels. Seepage. They were on a roll back then with "Three-Strikes" laws and the Anti-Terrorism Effective Death Penalty Act (AEDPA) or Crack Cocaine laws specifically targeting "minority groups" (i.e., black people) or the Prison Litigation Reform Act (PLRA); which made it even more burdensome for prisoners to not only prevail, but to even file lawsuits complaining about conditions and treatment. The courts readily dismissing cases while simultaneously ensuring all costs be collected. These laws are now controlling.

Oh, and by the way, the very first thing they started with was stopping Pell Grants for prisoners. And yes... I was also a student back then, too.

All of this under a Democratic President. This is why A LOT of people believe there really is no difference between parties when legislation like that wipes out any gains that took decades to accumulate.

Misguided Misgiving. Recently I received a letter from a couple of members of your Project, Chloe & Vanita, whom are "exploring the relationship between hip hop and writing in prison." They are seeking contributors to describe the impact that rap has had on me throughout life, notably, as it relates to writing.

Well... such an inquiry has made me wonder whether this self-initiated initiative is, in fact, the appropriate forum and if it is indeed being received—where it is welcomed? Maybe I have misjudged the Carceral State Project's mission and should now regroup. Thinking this effort is an error, as I am not really concerned with rap and hip hop in any other sense other than great lyrics set to rhyme. I do consider rap for its style and composition in order to improve my writing, yes. But as far as "impact throughout life," nah—can't say any. So...

What I'm thinking to do is to finish out this whole Initiative with one more installments that will put me at No. 10. A nice round number. Once that's complete, you will have received over 100-pages of stuffed-Cabbage reading.

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More than enough material to digest and decide whether you like the taste of it — or not.

Otherwise, I'm gonna shift on over to the Marshall Project in N.Y. Maybe submit some more to Michigan Quarterly. See if there's some local interest in the Coronavirus Pandemic while incarcerated? Shop the idea around here and there, see what I find.

Anyway... We finally received our COVID-19 test results. And apparently SRF has been doing a fantastic job of keeping the virus out because, as far as I know, the whole facility was found Negative. The lab, NxGen MDx out of Grand Rapids, delivered a paper copy to each and every one of us that were swabbed on 5/15/20. So that's good.

Finally. And as I suspected and explained in previous reports, the MDOC has not been keeping up with sending us JPay Representative updates. That we haven't received anything new since 5/27/20 is upsetting. Especially since we are dependent on them for current information and rely on them to keep their word when it comes to "information sharing." Hmmpf! Expected as much.



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COUNTERPRODUCTIVE ECONOMIC POLICIES

For the last couple of newsletters, we have dedicated this column to economic issues that interfere with the rehabilitation of people incarcerated in Michigan. This month we want to discuss an issue that has a significant impact on the economics of the prison system as well as the rehabilitative opportunities of those incarcerated. We believe that the department should take a serious look at the front end of its classification system.

When a man enters the prison system, if he has more than 7 years to serve, he will automatically be sent to a Level IV prison. He will remain there until he is within 7 years of his earliest release date (ERD) or until he has served more than 3 years on his controlling sentence. That means he is sent to a prison where there is very little programming, very few jobs, and limited opportunities for constructive socializing. So, he learns to do his time without being able to work on his RGC recommendations or participate in helpful programming. He has to rely on his family or others for discretionary spending money – or go without. He cannot observe others doing constructive time. And, taxpayers are paying more, since higher level prisons cost more to operate.

When he is finally transferred to a Level II facility, he may have acquired a substantial institutional debt. He likely feels more isolated than when he arrived and he may be angry. He now has to learn a new way to do time – the way he should have learned at the beginning of his sentence. Depending upon his level of frustration, that may be challenging.

How does this make sense? Why don't we begin by assuming that everyone will do their time responsibly, participating in programming and work opportunities and socializing appropriately? If someone demonstrates that he is unable to do so, place him in a higher security level and provide the support needed to help him learn to do time well.

SORA STATUS

February Court Ruling: On February 14, 2020, Judge Robert Cleland issued an order in the class action *Does v. Snyder II* case. The implementation was delayed for approximately 90 days to allow the legislature time to pass a new law and to ensure that registrants received notice of their responsibilities. If the order had become effective, the ruling would have accomplished the following:

- The state could no longer enforce any provisions of SORA against anyone whose crime occurred before April 12, 2011.
- For those whose crime occurred on April 12, 2011, or later, the state could no longer enforce...
 - prohibitions on working, loitering, or residing within a student safety zone;
 - the requirement to report all telephone numbers routinely used;
 - the requirement to report license plate numbers, registration numbers and descriptions of any motor vehicle, aircraft, or vessel regularly operated;
 - the requirement to report in person and notify registering authority immediately after establishing any electronic mail or instant message address or other designations used in internet communications or postings;
 - the requirement to report all telephone numbers routinely used;
 - the requirement to report all electronic mail addresses and instant message addresses routinely used;
 - the retroactive incorporation of the lifetime registration's requirement to report all electronic mail addresses and instant message addresses assigned and all login names or other identifiers used.

Legislation Introduced: On March 17, 2020, Representative James Lower introduced HB 5679 designed to create a sex offender registry that would be constitutional. The bill contains language that appears to be an attempt to address sections of the current law that were ruled unconstitutional. But, it would make only one substantial change in the current registry: those convicted of crimes that occurred before April 12, 2011, would no longer appear on a public registry. SORA reform advocates believe the bill is entirely inadequate.

The legislature is not in session because of the travel and congregating limitations due to the COVID-19 pandemic. So, the bill has seen no action. It is not clear when the legislature will reconvene.

Interim Court Order: On April 6, 2020, Judge Cleland issued an interim order in the case because the Court found that the COVID-19 pandemic has made it virtually impossible for the Michigan State Police to take the steps necessary to implement the judgment, that the legislature is not meeting in regular session, and that in person compliance with SORA is

virtually impossible for registrants, and would violate physical isolation directives.

The ACLU of Michigan summarized the interim order as follows:

1. Law enforcement must immediately stop enforcing registration, verification, school zone violations, and fee violations in connected with Michigan's sex offender registry law from February 14, 2020 until the COVID-19 crisis has ended. NOTE: this order enjoins the enforcement of the registry but does NOT stop law enforcement from continuing to use the registry.
2. The COVID-19 crisis is considered ended when:
 - a. There is no longer an operative federal or state executive order or legislative act declaring a state of emergency, or
 - b. The Court determines that the conditions giving rise to the need for this Order no longer apply, and
 - c. Registrants are notified of their duties under Michigan's registry law going forward.
3. Within seven (7) days of this Order (April 13, 2020):
 - a. Michigan State Police shall post notice of this Order on their website and other locations where it can be seen widely by registrants.
 - b. The Prosecuting Attorneys Association Coordinating Council must provide notice of this Order to all Michigan's Prosecuting Attorneys.
 - c. Michigan State Police must provide notice of this Order to the Michigan Association of Chiefs of Police and to the Michigan Sheriffs' Association, who must send notice to all law enforcement personnel who are responsible for registry enforcement matters.
4. The attorneys involved in this case must report to the court every 30 days on the progress of this order.

EFFORTS TO REDUCE POPULATION OF STATE'S JAILS AND PRISONS

Given the rapid spread of COVID-19, it was obvious that individuals in jails, prisons, and detention facilities were particularly vulnerable. Some state leaders reacted quickly. Much of their attention focused on jails and juvenile detention facilities.

On March 20, the Michigan Supreme Court State Court Administrative Office provided guidance to trial courts regarding detention, bail, and pretrial release. Those recommendations included the following:

- Coordinate with law enforcement in your county about expanding the use of appearance citations (when appropriate and legally permissible) rather than custodial arrests.
- Coordinate with your prosecutors and law enforcement agencies in your county regarding the

possible use of summons (when appropriate) rather than arrest warrants.

- If defendants are arrested for warrantless misdemeanor offenses, courts should coordinate with law enforcement to use their discretionary authority to set lower interim bonds for an expedited release of low-risk defendants before arraignment.
- Courts must closely adhere to MCR 6.106(C) regarding personal or unsecured bonds to effectuate as many pretrial releases from custody as safely possible.
- When setting bail, courts should carefully weigh the public necessity of certain pretrial conditions (including drug/alcohol testing, counseling, office visits, etc.) with the risk of spreading COVID-19.
- Consider using non-warrant alternatives (when appropriate) when defendants fail to appear in court or otherwise commit conditional release violations.

Michigan Supreme Court Chief Justice Bridget M. McCormack and Sheriff Matt Saxton, Executive Director of the Michigan Sheriffs' Association issued a joint statement on March 26, suggesting ways that local authorities could be proactive in reducing jail populations. Their suggestions included the following:

- Judges and Sheriffs should use the statutory authority they have to reduce and suspend jail sentences for people who do not pose a public safety risk.
- Law enforcement should only arrest people and take them to jail if they pose an immediate threat to people in the community.
- Judges should release far more people on their own recognizance while they await their day in court. For some, judges may want to release them under supervision or under a condition that they stay away from a particular place or person.
- Judges should use probation and treatment programs as jail alternatives.

On March 29, the Governor issued an executive order addressing concerns about how COVID-19 would affect jails and prisons. The order is to be effective through April 26, 2020. The first section deals with reducing risk in the prison system, but focused little attention on reducing the population. It contained the following requirements:

- Screen all persons arriving at or departing from an MDOC facility.
- Restrict all visits except for attorney-related visits and limiting visits to no physical contact to the extent feasible.
- Limit off-site appointments for incarcerated persons to only those related to urgent or emergency medical visits.
- Develop and implement protocols for evaluation, testing, notification, and isolation of incarcerated people who display symptoms of COVID-19.
- Notify the Department of Health and Human Services (DHHS) of suspected cases.

as we know, she hasn't increased the size of the parole board, released medically frail individuals, expedited commutations, arranged electronic public hearings for lifers awaiting those hearings, waived programming for individuals past their ERD, suspended truth-in-sentencing and computed good time for these people, applied provisions of the repealed Prison Overcrowding Emergency Powers Act to reduce prison sentences, or released people serving time for technical rule violations – to name a few suggestions. It is frustrating and frightening, as we watch the numbers of infected incarcerated persons rise, along with the death toll.

The following is a list of the nearly two-dozen organizations who have been meeting weekly under the direction of the Hudson-Webber Foundation to discuss opportunities and organize activities.

- ACLU of Michigan
- American Friends Service Committee Michigan Criminal Justice Program
- Citizens for Prison Reform
- Detroit Justice Center
- Family Advisory Board
- Hudson-Webber Foundation
- Humanity for Prisoners
- Michigan Center for Youth Justice
- Michigan Indigent Defense Commission
- Michigan Liberation
- Michigan Prisoner Rehabilitation Credit Act
- Michigan Protection and Advocacy Services, Inc.
- Michigan Public Health Initiative
- MI-CURE
- Nation Outside
- National Association of Social Workers – Michigan Chapter
- Neighborhood Defender Service
- Pew Trusts
- Public Welfare Foundation
- Safe and Just Michigan
- State Appellate Defender Office
- The Justice Collaborative
- Wayne State University Center for Behavioral Health and Justice

Unfortunately, the efforts of this group have not produced the results we intended.

CONDITIONS OF CONFINEMENT FOR INCARCERATED WOMEN IN MICHIGAN

Michigan State Senator Erika Geist has introduced two bills that will improve conditions of confinement for women in Michigan. SB 830 focuses on the treatment of pregnant and postpartum women. The bill will do the following:

- Codify the prison doula program.
- Ban the shackling of all pregnant and postpartum women, without the approval of a prison administrator and the treating medical care provider.
- Allow a 72-hour bonding period following birth.

- Establish a breastfeeding program.
- Prohibit on-duty MDOC staff from being present in the birthing room.
- Allow for a visiting family member to be present in the birthing room.

SB 831 will establish an advisory committee in the ombudsman's office that will oversee conditions of confinement in Michigan's women's prison. The committee will consist of a physician who specializes in high-risk pregnancies, a physician who is board certified as an obstetrician-gynecologist, a nutritionist, a licensed and practicing midwife, a practicing doula, an individual who was formerly incarcerated in a women's prison, an individual who has trauma-specific and gender-responsive expertise, a social worker with at least a bachelor's degree who has expertise in reentry services for prisoners, an individual who is a teacher or academic with expertise in adolescent development, an individual who is accredited by a national corrections institute, and an individual who has expertise in sanitation and environmental services. The committee will monitor the following issues affecting incarcerated women and report any issues to the ombudsman:

- Mental and physical health.
- Nutritional needs and resources.
- Conditions of confinement.

The group will also advise the ombudsman on best practices related to:

- Access to nutritious and quality food.
- Access to sufficient toilet paper and sanitary products, including for postpartum bleeding.

Because of the current COVID-19 pandemic, the legislature is not in session. It is not clear when they might reconvene. Their offices are still receiving mail. If you would like to express your views on these bills, your state representative can be reached at PO Box 30014, Lansing, MI 48909-7514, and your state senator can be reached at PO Box 30036, Lansing, MI 48909-7536.

SMART JUSTICE DAY OF ACTION: UNITING FOR PRETRIAL REFORM

Our nonincarcerated readers are invited to join the ACLU of Michigan for the "Smart Justice Day of Action: Uniting for Pretrial Reform" online event May 27, 9:30AM-5PM. The Day of Action will be a mass mobilization of advocacy groups and reform activists to push for passage of legislation related to the recommendations from the Michigan Joint Task Force on Jail and Pretrial Incarceration.

Partners are invited to help promote the event and to recruit participants.

Here is the registration link, through which you can view the agenda for the day.

- Provide, to the fullest extent possible, appropriate personal protective equipment to all staff.
- Conduct stringent cleaning of all areas and surfaces on a regular basis.
- Ensure that incarcerated persons and staff have access to personal hygiene products.
- Ensure protective laundering protocols are in place.
- Post signage and continually educate on the importance of social distancing, handwashing, and personal hygiene.
- Practice social distancing in all programs and classrooms.
- Minimize crowding, including interactions of groups of 10 or more people.

The order did focus on reducing jail populations. It suspended the County Jail Overcrowding Act so that actions normally authorized under the act are now valid without an overcrowding emergency. The order then urged that the following individuals be released if they do not pose a public safety risk:

- Older people, those with chronic conditions, medically frail, pregnant, or nearing their release date.
- Anyone incarcerated for a traffic violation.
- Anyone incarcerated for failure to appear or failure to pay.
- Anyone with behavioral health problems who can be safely diverted for treatment.

In addition:

- Parole violators must not be transported to or lodged in a county jail or local lockup unless they have successfully implemented risk reduction protocols.
- Local jails will be reimbursed for lodging individuals who would have been transferred to the MDOC under normal circumstances.
- Juvenile detention centers are encouraged to reduce the risks by doing the following:
 - Removing any juveniles who have COVID-19 symptoms from general population.
 - Eliminating any form of juvenile detention or residential facility placement for juveniles unless there is a substantial and immediate safety risk to others.
 - Providing written and verbal communications to juveniles at such facilities regarding COVID-19, access to medical care, and community-based support.
 - To the extent feasible, facilitating access to family, education, and legal counsel through electronic means at no cost, rather than through in-person meetings.
 - Unless otherwise directed by court order, for juveniles on court-ordered probation, the use of out-of-home confinement for technical violations of probation and any requirements for in-person meetings with probation officers are temporarily suspended.

The Michigan Joint Task Force on Jail and Pretrial Incarceration recently submitted its report outlining ways to reduce jail overcrowding in the state. The recommendations have gone to the legislature where they have been drafted into proposed legislation. Since the legislature is not in session, those bills are awaiting action. On April 1, 2020, the Task Force issued a press release urging that its recommendations be used immediately to reduce jail populations in view of the dangers posed by COVID-19. Those recommendations include the following:

- Handle most traffic offenses as civil rather than criminal matters.
- Expand officer discretion to use appearance tickets instead of custodial arrests.
- Divert those with behavioral health needs away from the justice system.
- Detain only those who pose a significant risk of absconding or harming a person in the community pending trial.
- Use probation, fines, and community service as sentences for low-level crimes.
- Limit jail time for those who violate the rules of supervision.
- Strengthen services and supports for crime victims and survivors.

The State Appellate Defender Office (SADO) quickly organized attorneys to represent inmates at some of the state's larger jails. The result was more people being released from Macomb County and Wayne County. The ACLU of Michigan sued Oakland County alleging that conditions there were putting vulnerable inmates at risk due to the virus.

We have seen a substantial decrease in the populations of many jails throughout the state. Sheriffs, judges, defense attorneys and prosecutors have cooperated in many cases to reduce the risk to the locally incarcerated.

The results at the state level have been more disappointing. The ACLU of Michigan and SADO suggested an Executive Order that would have reduced the prison population. The American Friends Service Committee (AFSC) composed two letters suggesting specific initiatives to reduce the population. Many organizations and individuals signed on to those letters. AFSC also organized weekly twitter storms to urge action on the part of the governor. Nation Outside organized a car protest in Lansing. We know that some inside groups have also raised their voices. Among them, the National Lifers of America, Inc. Chapter 1010 (Kinross) has written to the governor with a list of elderly incarcerated persons there who should be considered for release.

We are grateful that the parole board has increased the rates of parole. We appreciate the fact that the MDOC has reinstated forfeited good time to make some individuals eligible for parole. But we believe that more could and should have been done. The governor has claimed more than once that she is doing everything she can to reduce the population. But, as far