The Devil’s Deal: Plea Bargaining and the De Facto Sixth Amendment

The 6th Amendment of the United States grants each person the right to trial. Since the invention of the plea bargain, however, individuals who choose to exercise that right are, more often than not, severely penalized for doing so. This month’s feature looks at the vast discrepancies between what prosecutors and judges say cases are worth when they offer a plea and the time they dole out if a case is taken to trial. Page 6
A Note From AOUON Founding Member Dorsey Nunn

Often people talk about centering the voices of formerly incarcerated people and this election is a prime opportunity to exercise that value. All of Us or None has been engaged in the fight to restore voting rights to 50,000 people on parole. As long as the 50,000 people on parole cannot vote, enough doubt will be left in the rest of people with convictions to be bamboozled into believing they can’t either.

I have been fighting to make sure that the authentic voices of formerly incarcerated people are respected. If we are unable to engage in the campaign in a meaningful way we will miss the opportunity to legitimize members of our community or empower ourselves. In 2011 some of us made the trip to Alabama where we pledged to never give up on the struggle for voting rights.

I am writing this as a person whose leadership is firmly rooted in both my Blackness and my status as a formerly incarcerated person. The matter of our voting rights will be determined by November 3rd, when Proposition 17, a measure referred by the California state legislature, will be on the ballot. I ask that in these final 90 days, you help us spread the word about California Proposition 17. Talk to your family and friends about the importance of voting rights. Tell us your stories about disenfranchisement, or, if you can vote, what having that right means to you.

By November, we hope to have a chorus of these voices loud enough to push our state toward a more equitable future.
Aminah Elster rarely spoke about her incarceration when she was first received at Valley State Prison for Women, haunted by a feeling of shame. Then she realized her story not only empowered her to make change but empowered other women who had suffered, and she hasn't stopped working towards progress since. Photo courtesy Aminah Elster

Aminah Elster is a survivor on many levels. She survived years of domestic abuse at the hands of a husband who held her captive and subjected her to numerous forms of abuse. When he made her choose between her life and that of her ex-lover, Aminah thought of her son and said she wanted to live. The state threw her in prison for second degree murder, and she survived the violence and degradation of 15 years of a life sentence behind bars.

Today, Aminah testifies in front of legislators, members of the press, and policymakers with a unique eloquence that conveys the trauma of what she experienced without rage or distress. "You're conditioned to do that throughout your prison experience, especially if you have a life sentence," Aminah said. "You have to detach from yourself in order to understand what happened and then narrate it to the parole board to be found suitable for release."

It wasn't always like that, though. Aminah said when she first got to prison, she was embarrassed. She didn't share her story, and the shame and guilt of what transpired weighed heavy. But when she finally did speak out, it became clear she wasn't alone. Other women shared their experiences, and together they found purpose.

"It empowers me to see change transpire from storytelling," Aminah said. "I have to be open to discussing the harm done to me and the harm that continues against women in our country today."

Aminah became a member of the California Coalition for Women Prisoners when she was incarcerated and, after her release, began volunteering before engaging in contract-based work for the organization. She spoke out about the over-criminalization of women and the importance of ending life without parole sentences, the other death penalty.

"I lost my connection with my blood family when I went to prison, and the people I met in prison became my family. I wasn't going to leave them in there knowing personally what it's like," Aminah said. "It was never a question of what I was going to do when I was released. I left impassioned, knowing that people I consider family are still in there suffering."

Her work led to a fellowship at the American Friends Service Committee, a social justice nonprofit out of Oakland, CA. That's where Aminah says she was introduced to the policy and advocacy side of the social movement outside of prison. In 2018, she became an Elder Freeman Policy Fellow at Legal Services for Prisoners with Children and was ultimately hired full-time as the Family Unity project coordinator and a senior organizer. In that capacity, she gave an impassioned speech at the 2019 press conference for Assemblyman Kevin McCarty's Free the Vote Act about her own experience with felony disenfranchisement.

"Enfranchising people on parole is not about public safety, the haves and have-nots of those who have committed crime, or the fact that they are on parole," she said. "Allowing voters to decide if I should have the right to vote while on parole would lift me from the shadows and acknowledge that I am an individual with intrinsic human value."

Aminah's intrinsic value was immediately apparent to the admissions committee at UC Berkeley, where she was able to enroll and earn her Bachelor's in Legal Studies in May. She was formerly the Berkeley Underground Scholars Ambassador Program Coordinator, a program that supports formerly and currently incarcerated students in accessing higher education. Aminah also started her own business, Unapologetically H.E.R.S. (Healing Experiences Through Research Solutions). According to unapologeticallyhers.com, the nonprofit serves to "advocate in solidarity for gender equity and justice by supporting incarcerated people in the compiling and dissemination of fact-based understandings of the needs, preferences, behaviors, beliefs, and experiences of those housed within CA women’s prisons."

If you're getting the impression Aminah is driven, you're likely underestimating her. In fact, Aminah is so hungry to take on the next mechanism of oppression she rarely takes time to pause and celebrate victory over the last injustice.

"There was no room for weakness or taking a break," she said. "There is something inside of me that forces me to keep going."

"No matter if I want to just curl up in bed, something within me won't let me," she continued. "I use my pain as fuel and passion to push my purpose."
The End of the Ankle “Bracelet”?

By Prof. James Kilgore

For more than two decades the ankle shackle has remained the standard electronic monitoring device. Even as cellphones, tablets, smartwatches and laptop computers grew their power, the ankle shackle remained in place, bulging out under socks, scraping skin off criminalized legs.

COVID and decarceration are catalyzing change, bringing growth in cellphone-based monitoring devices like the BISmartLINK and the Guardian, made by Telmate. These devices are versatile technologies, downloadable to a personal phone or a dedicated company device. As with their ankle-based predecessors, no body of research or evidence verifies their effectiveness.

The New Monitors

BI, the nation’s largest electronic monitoring company, is the market leader in cellphone-based devices. While BI still produces traditional ankle monitors, the SmartLINK app is their frontrunner into the future. SmartLINK is already the go-to device for Immigration and Customs Enforcement (ICE). As of May 16, BI had over 20,000 people under ICE supervision on the SmartLINK, nearly double the figure for June 2019. While SmartLINK claims to offer services like court date reminders and lists of local resources, as researcher Mark Latonero notes, these devices can be just as easily used to “track, surveil, discriminate and stigmatize.” Since the start of shelter-in-place, Illinois parole agents have been ordering clients who were not under electronic monitoring to download the SmartLINK app to their personal phone. In a state where Black people comprise 15% of the population but 58% of those on parole, this app will be all about discrimination, stigmatization and new twists on punishment. Look for these to be more commonly used by parole agents in the future. Not only will they track your location but will have access to everything in your phone-contacts, FB friends, your calendar. In short, they will know who you know and what you do. By comparison, the home invasions that you do. By comparison, the home invasions that parole agents often do might look tame.

The Guardian, whose parent company is prison phone profiteer GTL, has similar capacities. Those under supervision can be prompted any time of day to read a series of numbers into the screen. The phone processes that interchange to determine if the person on the monitor is in the “right” place. The Guardian also claims to have a “solution for community corrections.” Once downloaded it has the capacity pick up ambient sound, adding another dimension of techno-invasion.

While SmartLINK and Telmate struggle to rebrand themselves as solution providers rather than incarcerators, Acivilate and Promise don’t carry that historical baggage. They emerged from the Obama years when providing “alternatives” to incarceration began to become mainstream. Acivilate stands firm in its dedication to use technology to “break the cycle” of recidivism. Their Pokket cloud service doesn’t supervise it focuses on “safely sharing information” providing the parole officer with the “full context of the client’s progress and challenges.” Promise, launched via a capital injection from seven investors including Jay-Z’s ROC NATION, offers “evidence-based, results-focused” technology and claims a strong “commitment to the public sector.” While not mentioning it focuses on “safely sharing information” providing the parole officer with the “full context of the client’s progress and challenges.” Promise, launched via a capital injection from seven investors including Jay-Z’s ROC NATION, offers “evidence-based, results-focused” technology and claims a strong “commitment to the public sector.” While not mentioning

The wolf of surveillance dresses in the sheep’s clothing of public health to initiate unregulated data gathering processes. Meanwhile, Attenti, a veteran player in the EM game has simply re-named their ankle shackle as a “quarantine management system.”

The End of the Ankle Shackle?

At this moment, these virtual mass supervision tools are in sync with the tectonic shifts forced down our collective throats due to COVID. Seemingly overnight we have witnessed massive moves to online instruction in schools and universities, to tele-health, and to running all kinds of meetings and social gatherings through applications like Zoom. These often manifest as services necessary to public health but, while perhaps serving some anti-Corona function, will ultimately emerge as data-gathering opportunities, chances to restructure the economy giving more power and control to big tech and certain elements of the state. The new electronic monitoring apps are in keeping with these changes. They do monitor location but BISmartLINK and Promise in the end will be grabbing our biometrics, putting them into the algorithmic mix and determining our risk level and outcomes. For criminalized Black and Latinx people plus other marginalized populations, such data act as a weapon, not a support. The cellphone or even the computer chip are much more potent weapons on this battlefield than an ankle monitor. Not only do we need to continue our struggle against mass incarceration but we need to also focus on mass supervision. With the rate at which technology is developing (and how addicted most of us are to using it) this may pose a future danger as powerful as the threat of building more prisons.

James Kilgore is a formerly incarcerated activist and writer based in Champaign-Urbana, Illinois where he is the director of Advocacy and Outreach for FirstFollowers Reentry Program.
AOUON|5

Dear AOUON,

A lot has happened in here and out there since I last wrote. It is not hard to figure out where to begin. I heard about lynching, read about violence, and I thought, that’s not going to happen to me. At the same time, I was feeling a very strong, deep sadness for the pain I inflicted on all my victims, my neighborhood, and family.

I was very angry about seeing George Floyd get killed, however, I saw that many arrest and used it as a catalyst to change. I was moved by seeing one of the inmates on the wall, where I knew I was never going to be, and I thought, I can’t let this happen. I can’t let this happen. I can’t let this happen. I can’t let this happen. I can’t let this happen.

To this day, I am still very angry about seeing George Floyd get killed. However, I took that anger and used it as a catalyst to promote change, individual change. Each one of us must examine ourselves and figure out who we are and what we can do as an individual and find out “what” and “how” we can contribute to change overall. For example, I know that I am not my crime. I am smart, intelligent, strong, Black and confident. I am loving, sensitive, thoughtful and unselfish. I can teach others to develop critical thinking skills and how to think on their own, tutor those who struggle with mathematics and science, and inform those who are ignorant of the political process in society regarding local, state and federal officials and judges. Most of all, I know and understand my role.

On a more somber note, the coronavirus is present in San Quentin State Prison. The first inmate to test positive for COVID-19 in San Quentin happened in late May. He, along with several inmates, were transferred here from California Institution for Men (Chino). These incarcerated men were around other incarcerated men infected with COVID-19 while housed in Chino. State officials made the decision to bring “asymptomatic” people to San Quentin rather than release more people to create “reasonable space” to house people exposed to COVID-19 in institutions where the virus is already present. The California Correctional Peace Officers Assoc. (CCPOA) union “may” have filed a lawsuit against CDCR for “knowingly and willingly” exposing correctional staff to COVID-19 infected prisoners. Two staff members who work at San Quentin have tested positive for COVID-19 so far.* It is unknown if they contracted the virus inside the prison or outside.

Regardless of what is going on in here and out there, I still must do the work to retrieve my freedom. You can attend all the groups you want, study all the material you feel you need, or read all the books relating to your crime(s), but if you do not search within yourself and learn and understand my role,

Marc Levine, a Democratic Assemblyman from San Rafael, to call it “the worst prison health screw-up in state history.”

Cases of infection and news of the George Floyd killing hit San Quentin simultaneously. In this month’s letter, Reggie writes about that experience.

Editor’s Note: Reggie Thorpe is incarcerated at San Quentin State Prison. His last letter to AOUON was published in our June newspaper. In that letter, he wrote about how the corrections department could not afford to allow the novel coronavirus to spread like wildfire in prisons and jails, not just because of the human cost but because of the economic cost. He ended his letter, “There are further actions that can be taken by CDCR to protect and prevent the coronavirus from entering the institution, but politics, bureaucratic red tape and special interests stand in the way... COVID-19 symptoms may take 2-14 days to surface in those infected. By then, it will be too late for us here at San Quentin.”

Unbeknownst to Reggie, a prison transfer had already occurred that would change everything. Over 100 prisoners from the California Institution for Men, a facility where coronavirus had already appeared, were transferred to San Quentin on May 30. Within a month, almost 2,000 incarcerated individuals at the prison were infected, leading read about lynching, and never thought, in this lifetime of mine, that I would see a black man lynched by a white police officer. I struggled with what I saw, and I am still struggling. However, I asked myself this question: “What makes you any different than that officer who killed George Floyd? Both of you killed someone.” I immediately begin to feel sorrow and grief for the pain I inflicted on all my victims, my neighborhood, and family.

San Quentin is a “high risk medical facility.” Majority of the incarcerated people housed here have underlying medical issues, which are, but not limited to: Hepatitis, HIV, AIDS, high blood pressure, diabetes, on dialysis, and other issues that affect their immune systems. Fortunately for me, I am not one of those people. However, I have serious concerns about their future health and lives. Most of them cannot survive a bout with COVID-19. I am not even sure I can or will survive COVID-19 myself.

Regardless of what is going on in here and out there, I still must do the work to retrieve my freedom. You can attend all the groups you want, study all the material you feel you need, or read all the books relating to your crime(s), but if you do not search within yourself and learn and understand how and why you committed crime(s), which hurt, harmed or injured others in some way or another, how can we change as individuals, to honor our victims and the death of George Floyd

-president, the California Peace Officers Association (CCPOA)

*As of press time, there have been 2,483 cases of COVID-19 at San Quentin: 2,226 prisoners and 267 staff.

I know I am not my crime.
Faustian Bargain: The Devil’s Deal

Plea Bargaining and the De Facto Sixth Amendment

On Thursday, May 1, 1997, Ken O. showed up to court for the first day of trial. His public defender had requested a Romero hearing, where, based on a California Supreme Court decision penned the year before, defense can request prior “strike” offenses be removed for the purposes of sentencing (People of the State of California v. Superior Court (Romero), 13 CAL.4TH 497, 917 P.2D 628 (Cal. 1996)). But Los Angeles County Judge Stephen E. O’Neil had something else in mind.

The judge said he would remove one strike and sentence Ken to 14 years, but there was a catch: He had to decide then and there. With three small children who would be graduating high school if he took the deal, Ken wanted time to think about it.

“I understand your request and I understand it’s serious,” the judge responded. “But when you’re talking 14 versus the rest of your life, how long do you need, Mr. O? The court is not going to make that offer. You take it today or we go to trial.”

The best he could do was prod the court for more information.

“You’re analyzing [the case] now and saying you’re willing to strike the strikes prior to trial?” Ken said, “and I guess what I’m asking is what would be the difference if I took it to trial?”

After some hemming and hawing, the deputy district attorney chimed in.

“There is one main difference between disposing of the case now and going through maybe a two-week long trial,” said then-Deputy District Attorney Ralph Shapiro. “There is a mitigating factor in sentencing called early or earlier admission of guilt without making the county spend a lot of money to go to trial, make us bring in all of our witnesses and go through the whole trial... After the trial, I don’t think you could assume to get the same benefit although your priors are the same, the considerations are the same except that wasn’t an early admission of guilt.”

In other words, Ken would lose the court’s generosity should he inconvenience it, financially, by exercising his right to trial.

Looking back, Ken said he might have taken the deal if held gotten to check in with his family, sleep on it, weighed the pros and cons — as anyone would have done when making a decision that would change the course of his life. But, as Ken says, he’s never “been punked into anything.” After a four-day trial, the judge sentenced Ken to two life sentences. He spent 27 years and eight months.

Ken reflected on his experience with the Sixth Amendment, the constitutional right for any citizen to take their case to trial.

“Is the right to trial a legitimate right when the consequences are so severe?” he asked. “There’s no other constitutional right that has such a severe consequence, so it calls into question the legitimacy of the right when people are punished for exercising it.”

Ken’s experience with plea bargaining was unique in one respect. The offer is usually made by the prosecuting office, the attorneys representing the people of the jurisdiction in which the case is being heard. It is on their behalf that, on average, people whose cases go to trial serve more than three times the amount of time they would have had they waived their right to trial.

Apart from that detail, however, Ken’s experience the most recent data – the Center found jury trials accounted for fewer than 3% of criminal dispositions in 22 jurisdictions with available data, including Texas (0.86%), Pennsylvania (1.11%), California (1.25%), Ohio (1.27%), Florida (1.53%), North Carolina (1.60%), Michigan (2.12%) and New York (2.91%).

In Michelle Alexander’s seminal, 2010 book, “The New Jim Crow,” she noted, “Never before in our history [sic] have such an extraordinary number of people felt compelled to plead guilty, even if they are innocent, simply because the punishment for the minor, nonviolent offense with which they have been charged is so unbearably severe.”

Ken was 30 when he stood before the court, but similar tactics are used with juveniles, who, in many cases, have less knowledge of the law and rely mainly on the advice of their attorney. Jermon Clark, for example, was 15 when he charged in a “strangling that ended with a fatality. As a teenager who bounced around the foster system for several years, he said he couldn’t fully understand the legal terms his public defender used with him. He added, the attorney seemed to “be in a hurry to get the case over with.”

What Jermon could understand was basic math: His public defender said he would do significantly less time if he pled out. He received 50 years and, because he is serving time under federal law, recent legislations around juvenile resentencing and early parole considerations do not apply to him.

“When I was 15, I only thought about that moment,” said Jermon, who will be 42 in October, “I didn’t think about the consequences or my future.”

Plea bargaining is often oversimplified as bullying, scaring defendants into taking guilty pleas to ensure efficient case closure in an already overburdened system. But while interactions like Ken’s, with Judge O’Neil, seem — and often feel vindictive, Ken believes the problem is much greater.

“That particular incident was bullying but I think there’s a bigger question about abuse of power in general,” he said. “It’s a question of prosecutorial and judicial power and misusing that with indigent, poor, Black and Brown people, specifically, in order to accommodate the wheels of justice and the judicial system.”

It’s more than just theoretical: The U.S. Sentencing Commission has stated outright that “the value of a mandatory minimum sentence lies not in its imposition, but in its value as a bargaining chip to be given away in return for the resource-saving plea from the defendant to a more leniently sanctioned charge.”

Even after reforms of mandatory minimums and cases like Romero, and the U.S. Supreme Court case United States v. Booker, the judiciary in both federal and state settings haven’t strayed far from previous so-called sentencing guidelines.
According to a study by the National Association of Criminal Defense Lawyers (NADCL), 80% of sentences doled out to federal defendants were within range of the 1984 Sentencing Reform Act guidelines, the same guidelines that, in Booker, were ruled to be in violation of the Sixth Amendment.

"Prosecutors can make plea offers on an all-or-nothing basis, confident that defendants will accept any terms to avoid an excessive sentence and that judges will rubberstamp the deal," the NACDL paper noted. "With fewer and fewer defendants opting for trial, judicial scrutiny of the terms of plea agreements is increasingly limited, as is judicial scrutiny of police conduct because defendants are coerced into waiving the right to challenge misconduct before the trial court or on appeal."

The cost in these deals, figuratively and literally, is high. In financial terms, while the short-term "expenses" of calling witnesses, conducting discovery and bringing in a jury among other costs, may seem high, they pale in comparison to the $80,000-per-year average it costs to incarcerate someone. Taxpayers would likely balk at the idea of coercing someone like Ken into what would have been a $1 million incarceration fee in the name of cost benefit.

It's also important to remember that these plea bargains are gambles with people's lives and the figurative costs of the real-life consequences are far too high. The National Registry of Exonerations has identified 359 exonerees who pled guilty due to the coercive tactics deployed to close cases. In Jermon’s case, where federal sentencing of juveniles who, as a federal prisoner, cannot benefit from the research and science that have propelled crucial state reforms in the area of juvenile justice, the lived experience is devastating.

For Jermon, whose earliest parole hearing date is currently set for 2037, "It feels like forever," he said. "Especially when you see your life just evaporating." Ken's experience was similar. "You start to psychologically suffocate," he said. "You start to realize they're gonna let you die in prison."

As one former U.S. District judge observed, "Today's excessive trial penalties [sic] undermine the integrity of our criminal justice system. Putting the government to its proof is a constitutional right, enshrined in the Sixth Amendment; no one should be required to gamble with years and often decades of their liberty to exercise it." (John Gleeson, a partner at Debevoise & Plimpton and a former U.S. judge for the Eastern District of New York, in the NADCL’s "The Trial Penalty: The Sixth Amendment Right to Trial on the Verge of Extinction and How to Save It.")

### About the Artist: Feature Story Background

W.B. Livingston III is an artist incarcerated at Joseph Harp Correctional Center in Lexington, Okla. According to articles about him, W.B. accepted a "blind plea" — a guilty plea without the benefit of the prosecution’s approval — and was sentenced to 50 years for first-degree manslaughter. It was his first offense and the conviction requires him to serve 85% of his time before he can be considered for parole. A blind plea means W.B. cannot appeal against his sentence; he can only ask a parole board for a time cut or commutation, a rarity among Oklahoma’s pardons and parole board for people incarcerated for "violent" offenses.

W.B. titled this piece "Universal Applicant." An avid music fan, W.B. usually names each piece after an artist or song. The song with the same title, performed by Bill Callahan, includes the following lyrics:

Tied up in a boat and kicked off to sea
In tight baby binding technique
My arm chews through the swaddling slings
There’s a flare gun in my hand
I point it straight and I point it high
And to the universe it applies
To say it’s been a busy summer for people in the trenches of the modern civil rights movement is an understatement. From COVID-19 spreading like wildfire inside detention facilities nationwide to the murders of George Floyd and Breonna Taylor, the national All of Us or None chapters have been going nonstop to expose the egregious injustices that continue to plague the members of our communities.

Since the theme of the Summer 2020 mixtape has given rise to systemic issues around racism, pervading societal castes and longstanding forms of oppression, it seems fitting for this month’s “Chapter Update” to focus on how All of Us or None has been fighting as a united front.

By June, the novel coronavirus had, to no one’s surprise, fully infiltrated the U.S. prison system. Facilities were locked down but the combination of staff movement, poor healthcare, and prison transfers made the spread of the virus inside prisons and jails exponential compared to the rest of the population. At this moment, the top 9 locations in the country for clusters of the virus are either a prison or a jail.

According to a declaration made by Michael Bien, the attorney representing a class of incarcerated individuals in California, out of 47 incarcerated COVID-related deaths (since Bien’s submission there have been two more deaths) in California, 93% were considered high risk due to underlying health conditions; 83% had a low risk assessment; 70% were people of color; and 10 had release dates either this year or next year. The callousness with which states handled the vulnerability of the prison population required a two-pronged approach, the first prong being risk assessment; 70% were people of color; and 10 had release dates either this year or next year.

With mounting public pressure, many governors began the decarceration process. Men and women coming out where shaken governors began the decarceration process. Men and women coming out where shaken

In California, chapters from up and down the state gathered for the “Stop Killing Us” rally at the state capitol with poster-size photographs of the victims of police homicide. The posters totalled 600 and caught the attention of several legislators who came out to address family members and their allies.

In addition to keeping up with the swell of civil rights activations around the country, chapters forged ahead in the everyday work that needs to be done on behalf of formerly and currently incarcerated people. AUOON Kentucky provided 25 Google Chromebooks to families of incarcerated individuals or system impacted children K-12 upon their return to school this month. AUOON Kentucky member Ketrah Herron, who is a part of ACLU Smart Just, helped create the #nomoreknocks campaign and has testified in front of the state legislature, city council and is fighting to establish Breonna’s Law.

For those still trapped inside, AUOON Kentucky provided communication funds in the amount of $25.00 and 10 stamps to 100 incarcerated individuals in Kentucky’s state institutions. For those who were released, the chapter provided emergency housing vouchers to 30 families.

Members of the Wisconsin chapter travelled to Minneapolis to stand in solidarity with their comrades and provide organizational support in the immediate aftermath of George Floyd’s death. Eastern Washington AUOON members flew the flag at protests in that state. At a “DropTheCharges” rally, Cincinnati members protested the arrest of more than 500 people who were arrested for violating curfew to exercise their First Amendment right to Free Speech.

In California, chapters from up and down the state gathered for the “Stop Killing Us” rally at the state capitol with poster-size photographs of the victims of police homicide. The posters totalled 600 and caught the attention of several legislators who came out to address family members and their allies.

SUMMER -- continues on PAGE 11
BILL WATCH*

*Editor's note: Many states have ended their current legislative session. This “Bill Watch” only reflects active bills and those on the state ballots.

**CALIFORNIA**

- Voting Rights for People On Parole (McCarty) ACA 6 / AB 646 PASSED The restoration of voting rights for 50k people on parole will now be on the November ballot. Go to freeth Evelove2020.org for more.

- Debt Free California (Mitchell) SB 144 would build on the recent decisions of individual counties (such as San Francisco, Los Angeles, and Alameda) to end the collection of certain court and probation fees by repealing state law authorizing specified criminal justice fees.

- Clean Slate (Rubel and Lent) [number pending] would allow individuals with felony convictions for nonviolent and nonsexual crimes to petition the courts to seal their public records. Individuals applying for sealed records would need to have served their whole sentence and have not reoffended in the three years following their release.

**IDAHO**

- Mental Health Bail Reform (Kaplan) S7242 would establish a pretrial mental health and substance abuse services bail fund.

**MISSOURI**

- Fresh Start Act (Koenig) SB 647 would require that no person shall be disqualified from pursuing, practicing, or engaging in any occupation for which a license is required solely or in part because of a prior conviction of a crime, unless the crime for which an applicant was convicted directly relates to the duties and responsibilities for the licensed occupation.

- Death Penalty With Mental Illness (Hannegan) HB 1756 would prohibit the execution of any person found to have suffered from a serious mental illness at the time of the offense for which they are accused.

- Slavery Exemption (Rice and Cunningham) SRC 96 is a proposed amendment to the state constitution that would prohibit slavery or involuntary servitude in New Jersey prisons.

**NEW YORK**

- Mental Health Bail Reform (Kaplan) S7242 would establish a pretrial mental health and substance abuse services bail fund.

- Probation Reform (Williams) SB 14 would reform how long Pennsylvanians stay on probation and the time served in prison for probation violations. It also specifies that a court may not impose a sentence of probation consecutive to another sentence of probation.

**KENTUCKY**

- Slavery Exemption (Rice and Cunningham) SRC 96 is a proposed amendment to the state constitution that would prohibit slavery or involuntary servitude in New Jersey prisons.

**NEW JERSEY**

- No For-Profit Prisons (Terrell) A 816 would prohibit DOC and other public entities from contracting with for-profit, private correctional facilities.

**ILLINOIS**

- Felony-Murder Rule Reform (Slaughter and Peters) HB1615/SB2292 would ensure only those directly accountable for a death are charged with first-degree murder.

- Right to Vote (Ford) HB4377/HJRCA33, a bill and constitutional amendment, would ensure incarcerated people would be able to vote.

- Kentucky Voting Rights (Higdon) SB62 would amend the Constitution of Kentucky to grant persons convicted of a felony other than a sex offense, a violent offense, or an offense against a child, the right to vote five years after completion of sentence. This bill passed the Senate but was not voted on by the House before the end of the 2020 session.

**UNITED STATES**

- The Second Chance Act (Britt, Daniel and McKissick) H 874 would set up automatic expungement for people who are found not guilty or have charges against them dismissed after July 1, 2020, and allow people to petition for the expunction of nonviolent misdemeanor and felony charges after a period of good behavior.

**PENNSYLVANIA**

- Probation Reform (Williams) SB 14 would reform how long Pennsylvanians stay on probation and the time served in prison for probation violations.

**CALIFORNIA**

AOUON represented at a recent protest outside the California Governor’s Mansion. Holding signs and chained to the front gate, organizers demanded the Gov. Gavin Newsom #FreeThemAll.

Photo credit: Christina Keen/All Of Us Or None Sacramento

Vote YES on California Proposition 17 this November and restore voting rights to 50,000 Californians on parole.
It was hot in Sacramento. A thick 95 degrees wrapped attendees of the July 1 “Stop Killing Us” demonstration at the state capital, a rally William “Tariq” Palmer joined as the newest Legal Services for Prisoners with Children employee to protest police homicides. He stood holding a 20-by-24-inch poster of another Black man killed by law enforcement. And while the moment seemed grim, Tariq felt empowered.

Tariq was released from prison in March 2019 after serving 31 years and 22 days of a life sentence. Locked up at 17 on kidnapping charges, he spent his formative years in a cage.

Prior to his incarceration, he lived for eight years in a wealthy Riverside neighborhood. A friend hooked him up with a job as a ranch hand, and he was training to be on a polo team, a gig that would have paid him up to $4,000 a month. All that promise ended abruptly when, after being arrested for a robbery, Tariq’s public defender -- who has since been disbarred -- encouraged him to take a life with the possibility of parole plea, rather than risk life without the possibility of parole. The district attorney charged the case as a kidnapping with intent to rob, and Tariq, believing his appointed counsel to have his best interest in mind, took the deal.

Tariq had to adapt to survive, but the course was uncertain. His life in a predominantly white suburb kept him largely sheltered from gang violence and racial divides. That changed in an instant when prison “cars” -- groups that “ride” together on the yard, defined, in most cases, by their racial identity -- were pressuring him to pick sides.

“I got into a lot of fights because I was a black kid acting like a wealthy white kid,” Tariq recalled. “That didn't go over too well.”

Tariq sought answers in scholastic fashion. He started with the “Autobiography of Malcolm X,” studied history and earned his GED. He started two businesses -- a package company and a t-shirt business -- and earned an associate's degree.

“I couldn't work in prison, like as a gardener or a porter,” Tariq said. “If it had to do with maintaining the prison system, I felt that was like working against myself, so education was a way of freeing myself and, eventually, other people.”

At the same time he was expanding his mind, Tariq began to nurture his spirit, finding strength and hope in Islamic teachings and practices.

Tariq spent years learning about what it meant to be a Black man, but when he found spirituality, something shifted, and he began the process of unlearning and self-discovery.

“For so long I was trying out how to be Black, and then I figured out that there’s no such thing,” he explained. “Being Black in America is defined by white supremacy, so instead I learned how to become a human being and free of anyone else’s definition.”

Tariq began to teach others in prison. He naturally gravitated toward juveniles, walked them through self-forgiveness and how to become better men -- men who wouldn’t return to society and harm either others or themselves.

Return to society! It dawned on him that the system was leaving him to “die in prison,” so he hit the books again, this time at the law library.

Tariq eventually filed an appeal, claiming his indeterminate sentence violated his Eighth Amendment right. He argued that numerous rejections by the parole board -- he was eligible for parole after seven years and had served 31 -- did not take into consideration that he was incarcerated as a juvenile.

The First District Court of Appeal agreed, writing in its opinion, “the serial denials of parole Palmer experienced resulted in punishment so disproportionate to his individual culpability for the offense he committed, that it must be deemed constitutionally excessive.”

In addition, the court redesigned the parameters for Title XV juvenile offender hearings, a reform that has freed hundreds of juveniles since, according to Tariq.

“I've actually met people who have gotten out under In re Palmer, and when they find out I’m Palmer, they are so grateful,” he said. “It’s one of the most amazing feelings ever.”

Comparable was Tariq’s journey from the prison to Gate 9, where his cousin came to retrieve him. Men cheered his name from behind the walls, a ritual he experienced only as a participant, never a recipient. He took a bath for the first time in 31 years. He let his body soak and “washed prison away” from him.

Later that day, his cousin dropped him off at a halfway house in San Francisco’s Tenderloin.
August 2020

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Resources

Coronavirus Resources
Supporting directly and system impacted people during crisis
https://www.beyond-prisons.com/covid19

Safety Manuals for Individuals in State, Federal and California Correctional Facilities
prisonerswithchildren.org/Coronavirus

COVID-19 Mutual Aid
(NEWARK, NJ)
https://www.allofusornone-northernnj.com/covid-19-newark-mutual-aid

COVID-19 Mutual Aid

Honor
The lives of those who have died from COVID-19 behind bars.

Expose
How the state continues to threaten the lives of incarcerated people in overcrowded prisons.

Demand
That Governor Newsom, CDCR and the California State legislators take emergency action to decarcerate and save lives NOW!

Sacramento Caravan:
#SayTheirNames & Bring Our Loved Ones Home Now!
Thursday
Aug. 13, 2020

#MoratoriumOnCovidBehindBars
#SayTheirNames @ State Capitol Building-North Side Steps (Bring photos of loved ones and roses)
1:45pm-3:00pm
Car Caravan to CDCR Headquarters
(signs on car & head to 1357 S. Street)
3:15pm-6:00pm
Dinner @ Southside Park
(optional)
5:00pm-6:00pm
Candlelight Vigil to Honor Lives Lost
(Bring roses)
7:00pm-8:45pm
Location: TBD
RSVP on FB

For more information:
Salome Contreras 760-405-4648
Delores Cotton 714-999-9507

*Please wear face masks and practice social distancing. If sick, please stay home.

More details visit: bit.ly/SacramentoAction

SUMMER from PAGE 10

Central Illinois AOUON worked with Atty. MiAngel Cody of the Decarceration Collective in Chicago and made a Social Bio Packet for Brian Burnside, who has been serving a life sentence since 2007 under the Three Strikes Law. Brian was resentenced under the First Step Act and will be coming home next year. The chapter is now a 501(c)3 organization as defined by IRS and all donations are tax-deductible.

AOUON National continues its fight against felony disenfranchisement through its campaign for Proposition 17. The national chapter’s coalition with other formerly incarcerated-led organizations, FreeTheVote2020 (freeethevote2020.org), helped the constitutional amendment pass out of the legislature in June and the chance to restore voting rights to 50,000 Californians on parole is now on the November ballot.

It’s been a whirlwind summer, indeed, but the fight continues. In the words of the recently deceased Freedom Fighter John Lewis, may we remember: “Freedom is not a state; it is an act. It is not some enchanted garden perched high on a distant plateau where we can finally sit down and rest. Freedom is the continuous action we all must take, and each generation must do its part to create an even more fair, more just society.”

Join the movement by contacting your local chapter head, listed on the backpage of this newspaper.

SUMMER from PAGE 10

District. Staff patted him down, had him take a breathalyzer test, throw his bags in a 12-man room and required him to submit requests to leave the premises.

“How was I supposed to succeed in a place like that?” Tariq said. “It felt like I was given a 24-hour pass and then thrown in what I imagined a Level 1 prison would be like.”

“I was happy to be out, but I still felt the psychological torture of prison,” he continued. He found a similar invasiveness in his relationship with his parole officer, who searched his phone and threw him in jail three times on minor violations. This made him even less trusting and more rebellious against his new circumstances and the people who were there to supposedly help him succeed. It wasn’t until he met Charles Brown, his Revocation Court Counselor, that he began to focus on what was really important.

“He told me to protect my parole like it’s the most valuable thing in the world,” Tariq said. “That’s how I was able to straighten out my life.”

One foot in front of the other, Tariq began to think creatively. He started telling his story and eventually connected with All of Us or None. He began working in May as a financial support specialist for the national chapter’s fiscal sponsor, LSPC.

As a member of All of Us or None, Tariq has done panels on juvenile justice and police brutality. In July, he spoke at a rally to support Proposition 17, a California ballot measure that would restore voting rights to people on parole. At 50 years old, Tariq has never been able to participate in the democratic process. And then there was that scorching day on July 1. Surrounded by peers and like-minded individuals, Tariq felt at home.

“I’d never been part of anything like that before,” he said. “To be part of the community like that -- it felt amazing.”

The feeling grew even stronger when he reunited with his sister later that day: The siblings hadn’t seen each other in 40 years.

(Discovery from PAGE 10)

Demand Justice for Brutalized Black Prisoners
Attend Black Justice Protest the last three Saturdays in August at Soledad State Prison CTF & Warden Craig’s home

August 15th at CTF - 11:00AM
August 22nd at CTF - 11:00AM
August 29th (Held in front of CTF Warden Craig Koenig’s home at 11:00AM)

If you have any questions, please contact Tasha Williams at:
	tashachildress@gmail.com

Every Third Thursday
6:30pm to 8:30pm PT
https://ispcc.zoom.us/j/92683469000

All of Us or None Monthly VIRTUAL Membership Meeting

PHONE: 714-283-0066
EMAIL: info@allofusornone.org
WEB: allofusornone.org

All of Us or None
Food & Justice

(DISCOVERY from PAGE 10)
## All of Us Or None

**Chapter Contacts**

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<th>State</th>
<th>City</th>
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**All of Us or None Membership Form**

YES, I want to become a member of ALL OF US OR NONE!

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Bertolt Brecht (1898–1956)