

Restore Justice Foundation

Criminal Justice Issues and Prisoners' Rights

<https://restorejustice.org/restore-justice-summer-2020-newsletter/>

Newsletters

Dear Friends,

We hope this letter finds you safe and as well as possible during these difficult times. Since our last letter, we have continued to try to find ways to help you and your families and friends, but, like everyone, we are often frustrated due to the impact of the pandemic of COVID-19. It feels as if we are in an important moment in history with racial equity in our nation and state as well. We hope you find this update useful, and as always, we are eager to hear from you.

We have included a Clemency tool-kit developed by our partners and friends at the Illinois Prison Project.

Big Shoulders has a writing opportunity for anyone interested and nearing their release date, you can contact them at:

OUTSIDE IN Project

Big Shoulders Books DePaul University

2315 N. Kenmore Ave. #312, Chicago, IL 60614

LEGISLATIVE UPDATE

The Illinois General Assembly cut short its 2020 session without passing legislation that would enable them to legislate remotely; therefore, they cannot do the work of the state unless they are convened in person. As you can imagine, this has some pretty large implications for any legislative efforts. Normally, the legislative session would run from January through May 31 with veto session days sprinkled throughout the late fall. It is unclear whether or not we will have a veto session this year (and even if they do, it will be very brief), which means the next time the Assembly could do any business would be in 2021. If no vaccine or treatments become widely available before early 2021, it is hard to imagine a normal legislative session, where thousands of bills are considered and debated.

What does this mean for us? Well, it means ALL of our normal legislative priorities, such as felony-murder reform, elimination of the remaining juvenile life-without-parole statute, retroactive application of the law we helped create in 2015 that allows judges to use discretion gun enhancements in some cases all of these are on hold. This is true for ALL of the legislative efforts underway at other organizations, as well, unless they know something we don't!

So, while we usually take up a lot of space in our letter to talk about legislation, we will instead focus on what is happening now, which largely revolves around the Governor and the Illinois Department of Corrections orders and policies.

LEGISLATION

Here are some of the bills we will continue to educate people with the intention of reviving them in 2021 when the legislature reconvenes in earnest, along with some others that you have asked us about in your recent letters.

FELONY-MURDER: There are two primary felony-murder reform bills, HB1615 and HB5631, both sponsored by Rep. Justin Slaughter. *Neither have been voted upon and neither are law.* HB1615 makes sweeping changes to felony-murder. HB5631 is more limited and only removes the piece of felony-murder relating to deaths that are caused by a third-party. Why are there two bills? Because of opposition to the more sweeping reform, our policy team was asked to seek alternatives that could garner support from more progressive members of the law enforcement community. HB5631 is the result of those negotiations. Here are brief descriptions of each:

HB1615 would provide that a person who kills an individual without lawful justification commits first degree murder if he or she acting alone, commits or attempts to commit a forcible felony other than second degree murder and, in the course of and in furtherance of the crime, he or she personally causes the death of an individual. Provides that a person who kills an individual without lawful justification commits first degree murder if he or she, when acting with one or more participants, commits or attempts to commit a forcible felony other than second degree murder, and in the course of and in furtherance of the offense, another participant in the offense causes the death of an individual, and he or she knew that the other participant would engage in conduct that would result in death or great bodily harm.

HB5631 would provide that the offense of first degree murder for killing an individual without lawful justification during the attempted commission or commission of a forcible felony only applies when the death is caused by a person engaged as a principal or an accessory in the attempted commission or commission of the forcible felony.

JLWOP: Right before COVID-19 hit, Rep. Rita Mayfield filed HB5670, which *has not been voted on it is NOT a law.* Restore Justice developed this proposal to expand on our work on the Youthful Parole Law. The proposal would eliminate some of the last vestiges of

juvenile life without parole by removing the offense-based carve-outs in the Youthful Parole Law. Offenses carved out in the current law include predatory criminal sexual assault of a child and first degree murder or a term of natural life imprisonment.

EARNED DISCRETIONARY RELEASE: Senator Villanuava filed SB3233 before COVID-19 shut down the legislature. *This bill has not been voted on. It is NOT a law. Restore Justice has not done work on this effort, so we are simply summarizing information from research on the Illinois General Assembly website (www.ilga.gov).*

SB2322 would provide that notwithstanding to the contrary any provision of the Code, the Post-Conviction Hearing Article of the Code of Criminal Procedure of 1963, the Habeas Corpus Article of the Code of Civil Procedure, or the relief from judgments provisions of the Code of Civil Procedure, a person serving a term of imprisonment in a Department of Corrections institution or facility is eligible for Earned Discretionary Release and a parole hearing if he or she has served the greater of: (1) a term of imprisonment of at least 20 years; (2) 25% of his or her sentence; or (3) the minimum term of imprisonment for the most serious offense for which the person was convicted. Provides that a person serving a term of natural life imprisonment is eligible for Earned Discretionary Release and a parole hearing after serving a term of imprisonment of at least 20 years. Provides that each committed person eligible for Earned Discretionary Release on the effective date of the amendatory Act shall receive a risk assessment within one year after the effective date of the amendatory Act. Deletes provision that no person serving a term of natural life imprisonment may be paroled or released except through executive clemency. Contains a severability provision.

TRUTH IN SENTENCING: Sen. Kim Lightford filed SB2054 in 2019, but it has not yet passed through a committee. *It has not been voted upon and is NOT a law. has not done work on this effort, so we are simply summarizing information from research on the Illinois General Assembly website (www.ilga.gov).* There have been several amendments filed, and now in the Assignments Committee awaiting assignment to its first committee hearing.

SB2054 would permit offenders subject to the truth in sentencing provisions of the Code to earn sentence credit for good conduct in specific instances as the Director of Corrections deems proper. Permits offenders subject to the truth in sentencing provisions of the Code to earn sentence credit for educational, vocational, substance abuse, behavior modification programs, life skills courses, re-entry planning, and correctional industry programs. Provides that sentence credit earned shall not reduce the sentence of the prisoner to less than: (1) 75% (rather than 85%) of his or her sentence if the prisoner is required to serve 85% of his or her sentence; and (2) 90% of his or her sentence if the prisoner is required to serve 100% of his or her sentence.

YOUR QUESTIONS

Can I get released from prison because of a medical issue during COVID-19? What about hygiene issues?

The Governor did enable medical furlough during COVID-19, but that pathway to release is very, very narrow. And they do consider the offense and security stuff in addition to actual medical necessity, including automatic exclusion of anyone with natural life.

To be considered, the doctor who treats your condition has to begin the process by filling out and filing a Medical Furlough Criteria Screening Form DOC 0583 with the facility Medical Director for consideration. Guidance from IDOC notes the following about medical eligibility:

I. Any physical mobility offender or terminally ill offender may be considered for a medical furlough.

1. Limited physical mobility offenders shall require rehabilitative and/or ongoing assistance to complete activities of daily living, such as bathing, dressing, transferring, toileting, and eating.

2. Limited physical mobility offenders shall be furloughed to a healthcare facility or home placement and shall meet the individual admission requirements for the health care facility, hospice or home health program. If placed in a hospice or home-setting, the Department shall require reasonable assurances that the necessary level of care will be provided.

ii. Terminally ill offenders shall require end of life care.

1. If being furloughed to a healthcare facility, the terminally ill offender shall meet the individual admission requirements for the health care facility.

2. If being furloughed to a home setting, the terminally ill offender shall meet the admission requirements to be admitted to hospice or a home health program.

iii. Generally, medical furlough consideration shall not be given if the offenders medical condition was present at the time of sentencing, unless the offenders overall condition has significantly deteriorated during incarceration.

How can I find an attorney to help me?

Here at Restore Justice we are a small staff, we do not have any attorneys on our staff, and we cannot give legal advice on individual cases. We understand how unfair the system can be, therefore we work through the legislative process to try and change unjust laws. Unfortunately we are unable to find attorneys for individuals.

How can I file for Clemency, or other means of release during COVID-19?

That is a great question, we get it every minute of every day. This is an excellent time to consider a clemency petition. The Governor and the Prisoner Review Board have streamlined the clemency process, and while they are not considering thousands of clemency petitions, they are considering hundreds.

We are also recommending this because it is literally the only proactive thing most folks can actually do to pursue release after serving

many years in prison, given our legislative situation. Our colleagues at IPP put together a toolkit to help loved ones of incarcerated people file (here: www.illinoisprisonproject.org/toolkit-for-families-of-incarcerated-people).

We are including this toolkit starting on Page 18 of this letter.

The other two mechanisms for early release are Earned Discretionary Sentencing Credits and Electronic Detention. IDOC has the authority to grant good-time, up to 180 days, to people who are close to their exit or MSR dates. IDOC has already reviewed the more than 7,000 people who may have been eligible in a pool consisting of class 2-4 felonies with under 6 months to go until their release, and as of mid-June, IDOC data shows that 1,600 made it through. Electronic detention is barely being used, and is a mixed bag, as you know.

We wish we had more good news to share with you here, but at least there are some pathways to explore.

RESHARING INFORMATION ON THE NEW GOOD TIME LAW (Sentencing Credit-Public Act 1010440)

Restore Justice previously shared an explanation of the recent good time law. We've received a lot of questions about this new law so we are resharing the information.

Disclaimer: Restore Justice was not a part of the legislative effort that resulted in the passage of HB0094, and so we are relying on our own analysis of the law along with our partners feedback to generate this summary. We decided to publish a summary because we were getting an overwhelming number of questions on the topic.

The most important thing to know is that **the new law only applies to inmates serving sentences for offenses committed before June 19, 1998.** (Truth in Sentencing, which eliminated and reduced sentencing credits, is still the law.)

The Illinois Department of Corrections (IDOC) has not yet issued clear guidance on how they plan to implement this new law, but with our friends at John Howard Association, we have outlined our summary of the law below.

The law requires IDOC to award up to 90 days of sentence credit for successful completion of programming listed under 730 ILCS 5/3-6-3(4) to people who are currently serving a sentence for an offense committed **prior** to June 19, 1998.

Programming listed in paragraph 4 of 730 ILCS 5/3-6-3 includes full-time substance abuse programs, correctional industry assignments, educational programs, behavior modification programs, life skills courses, or re-entry planning should count for sentence credit. Obtaining college and advanced degrees should also count.

If this change in the law applies to you, sentencing credit should be awarded to you for successfully completing programming at any time during your current term of incarceration. So, you should be awarded sentence credit for programming successfully completed at any time before or after the day the change in the law goes into effect (January 1, 2020). The programming must have been completed during your current term of incarceration if you are currently incarcerated for an offense committed prior to June 19, 1998.

Heres how the amount of sentence credit would be determined:

If the person participated in more than 45 days of programs, they would receive 90 days of sentence credit. If the person completed less than 45 days or cannot prove they completed more than 45 days, they would receive 45 days of sentence credit.

An additional 180 days of sentence credit could be awarded to inmates who obtain bachelors, masters, or professional degrees while in IDOC custody.

We interpret this to mean that no one will get more than 90 days of credit via this program unless they obtained a bachelors masters, or professional degree within IDOC.

Heres whats needed to be eligible for sentence credit:

Documentation that the person participated in and completed full-time substance abuse programs, correctional industry assignments, educational programs, behavior modification programs, life skills courses, or re-entry planning.

The inmates own testimony, through an affidavit or documentation, OR a third partys documentation or testimony, through an affidavit, that the inmate participated in and completed the programs.

Other things to know:

LITIGATION UPDATES

In our last newsletter, we talked about the US Supreme Court case of **Jones v. Mississippi**. The opening brief for Brett Jones was filed on June 12. The brief from the prosecution will likely be filed this summer with argumentS (again, likely) in the fall.

The Illinois Supreme Court issued a frustrating decision in **People v. Coty**, which refused to extend the categorically diminished culpability protections (found in cases like *Miller v. Alabama* and *Graham v. Florida*) given to those under the age of 18 to an intellectually disabled adult (William Coty was 46-years-old at the time of the offense). The Illinois Court concluded that a mandatory life sentence for an intellectually disabled individual is constitutionally permissible.

Three cases remain pending in the Illinois Supreme Court that we are watching: (1) **People v. Lushy** (what is adequate consideration of youth in order to comply with *Miller* before imposing a *de facto* life sentence); (2) **People v. House** (whether there is enough evidence on the record in the trial court to support the appellate courts holding that a mandatory natural life sentence is unconstitutional as applied to a 19-year-old defendant convicted under a theory of accountability); and (3) **People v. Dorsey** (Whether the 14-year-old defendants consecutive sentences of 40, 18, and 18 years, for an aggregate sentence of 76 years, is a *de facto* natural life sentence, where the

defendants eligibility for day-for-day credit may lead to release after 38 years). *Lusby* was argued in May and we would expect a decision this year, the other two cases are being briefed.

In the appellate courts, there were a number of cases remanded by the Illinois Supreme Court to reconsider their decisions in light of *People v. Buffer*, and some of those cases have now been sent back to the circuit court for new sentencing hearings. This has happened through new decisions by the appellate court (*People v. Terrance Tucker*, 2020 IL App (1st) 132163-UB), but more often through the prosecutors office agreeing to a summary remand for a new sentencing hearing. Other cases are being briefed in the appellate court and we will continue to monitor their progress.

Decisions continue to go both ways regarding expansion of *Miller* protections to emerging adults. Compare *People v. McClurkin*, 2020 IL App (1st) 171274 (affirming the denial of leave to file a successive PC petition for a 24-yr-old who received mandatory life) with *People V. Minniefield*, 2020 IL App (1st) 170541 (trial court erred in denying leave to file a successive PC petition for a 19-year-old who received a 50-year sentence for first degree murder). One relatively consistent pattern is that most of the relief is in allowing further proceedings to happen in the circuit court where one can develop the record and show why the holding of *Miller* should apply in their case. Appellate courts are not frequently ordering new sentencing hearings, they are permitting the cases to continue under the Post-Conviction Hearing Act. For example: *People v. Carrasquillo*, 2020 IL App (1st) 180534 (appellate court remanded for further proceedings on a successive petition for an 18-yr old sentenced to an indeterminate term of 200 to 600 years for a 1976 offense).

People v. Daniel: 2020 IL App (1st) 172267. Defendant, age 16 at time of offenses, was convicted of 1st degree murder, armed robbery, and residential burglary in 1991, and sentenced to an extended 70-year prison term for murder, 20 years for armed robbery, and 15 years for residential burglary, all to run concurrently. This is a de facto life sentence, even though Defendant is eligible for day-for-day credit. Court failed to fully consider Defendants youth and its attendant circumstances in imposing the 70-year sentence; the sentence violates 8th amendment. Court erred in dismissing Defendants successive post conviction petition. Sentence vacated, and remanded for resentencing.

CIRCUIT COURT UPDATES (as of July 6, 2020)

Court hearings throughout the state were cancelled this spring, as COVID-19 caused Illinois to shut down. Courts are starting to resume, but there may still be delays. Weve compiled information about the status of hearings in each Illinois circuit.

Circuit Court of Cook County

Effective July 6, 2020, the circuit court will begin hearing all matters in all Districts and Divisions of the court with the exception of jury trials. It is further ordered that, except as provided below or as otherwise ordered by the judge presiding, effective July 6, 2020, all matters in all Districts and Divisions of the court shall be conducted by Video conference to the extent reasonably possible.

HOW TO GET YOUR NEXT COURT DATE (COOK COUNTY)

(Please note that if your court date is still showing as being in June, the date has not been updated, please wait to receive a new postcard or email notice, and/or check back on the website at a later date. Also, if you call the automated system, and it says, NO NEXT COURT DATE, please TEXT or EMAIL the specific Division, Department or District, or CHECK THE MOBILE APP or the WEBSITE, to VERIFY.)

A TEXT or EMAIL message can be sent to the appropriate Division/Department/District of your court hearing to request your next court date for civil, traffic, and criminal cases. Text or email your case number, or, if you do not have your case number, text the Plaintiff or Defendants name for civil case types, or the Defendants name and birthdate for a criminal case.

Criminal Division

TEXT: (773) 350-3166 or (773) 350-3167

EMAIL: CrimFelCourtDate@cookcountycourt.com

Criminal Department

TEXT: (773) 350-3171 or (773) 350-3172

EMAIL: CrimMisdCourtDate@cookcountycourt.com

General Information

CALL: (312) 603-5030

Call the automated interactive voice system for the appropriate Division/Department/District for civil, traffic, and criminal cases, to obtain your next court date. You will need to enter your case number to get your court date.

Criminal Department (312) 603-4641

District 2 (847) 470-7250

District 3 (847) 818-3000

District 4 (708) 865-6040

District 5 (708) 974-6500

District 6 (708) 232-4551

First Judicial Circuit Court

(Alexander, Jackson, Johnson, Massac, Pope, Pulaski, Saline, Union, and Williamson counties)

Court matters resumed June 1. Hearings are being held through phone and video when possible.

Second Judicial Circuit Court

(Crawford, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jefferson, Lawrence, Richland, Wabash, Wayne, and White counties)

Hearings for non-emergency cases resumed May 27. There are limits on the number of people allowed in court, and phone and video hearings are being used when possible.

Third Judicial Circuit Court

(Bond and Madison counties)

Many court operations resumed on June 1, but criminal felony jury trials that were scheduled to begin before August 1 have been continued. For more information, call the clerk at (618) 692-6240 or visit this website:

Fourth Judicial Circuit Court

(Christian, Clay, Clinton, Effingham, Fayette, Jasper, Marion, Montgomery, and Shelby counties)

Courts resumed hearings for traffic cases, including DUIs, bond settings and other cases for people currently in custody, and criminal felony cases. Video conferencing are being used when possible. Criminal jury trials have been continued until at least June 15.

Fifth Judicial Circuit Court

(Clark, Coles, Cumberland, Edgar, and Vermilion counties)

Hearings resumed June 1. Phone and video conferencing are being utilized when possible.

The following counties postponed jury trials and plan to resume them no sooner than the dates listed:

Sixth Judicial Circuit Court

(Champaign, DeWitt, Douglas, Macon, Moultrie, and Piatt counties)

Hearings resumed June 1. Remote hearings are being used when possible. Jury trials are scheduled to resume June 15.

Seventh Judicial Circuit Court

(Greene, Jersey, Macoupin, Morgan, Sangamon, and Scott counties)

Eighth Judicial Circuit Court

(Adams, Brown, Calhoun, Cass, Mason, Menard, Pike, and Schuyler counties)

Hearings resumed June 1 and are conducted via phone and video when possible. **Ninth Judicial Circuit Court**

(Fulton, Hancock, Henderson, Knox, McDonough, and Warren counties)

Hearings resumed June 1 and are conducted via phone and video when possible. **Tenth Judicial Circuit Court**

(Marshall, Peoria, Putnam, Stark, and Tazewell counties)

Hearings resumed June 1 and are conducted via phone and video when possible.

Find more information here:

Eleventh Judicial Circuit Court

(Ford, Livingston, Logan, McLean, and Woodford counties)

Hearings resumed June 1 and are conducted via phone and video when possible. **Twelfth Judicial Circuit Court**

(Will County)

Hearings resumed June 1. You can find more information about your court date here: <https://www.circuitclerkofwillcounty.com/Public-Access/Court-Schedules1>

Thirteenth Judicial Circuit Court

(Bureau, Grundy, and LaSalle counties)

Hearings resumed June 1 and are conducted via phone and video when possible. **Fourteenth Judicial Circuit Court**

(Henry, Mercer, Rock Island, and Whiteside counties)

Hearings resumed June 1 with limitations, including the number of cases in a courtroom per hour.

Fifteenth Judicial Circuit Court

(Carroll, Jo Daviess, Lee, Ogle, and Stephenson counties)

Hearings resumed June 1 and are conducted via phone and video when possible. **Sixteenth Judicial Circuit Court**

(Kane County)

All jury trials (felony, misdemeanor, traffic) will commence on Thursdays at 1:30 p.m. After following the procedures outlined below, the jury trials that started on Thursdays will be continued over to either Monday, Tuesday or Wednesday of the following week. Jury selection will begin on Monday, Tuesday or Wednesday mornings at 8:30 a.m. Tuesday jury trials are limited to six-person juries and will only apply to traffic and misdemeanor cases. To find out more information about your court date, call (630) 232-3413.

Seventeenth Judicial Circuit Court

(Boone and Winnebago counties)

Hearings resumed June 1 and are conducted via phone and video when possible. **Eighteenth Judicial Circuit Court**

(DuPage)

Hearings resumed June 1 and are conducted via phone and video when possible. Criminal jury trials are scheduled to resume on July 20. Court dates can be viewed by attorneys at [eaccess](#) and by the general public at <https://epay.18thjudicial.org/Clerk/>

Nineteenth Judicial Circuit Court *(Lake County)*

Proceedings resumed June 1 and are being conducted primarily through video. Find scheduled court calls, including the appropriate video link at this website: <https://19thcircuitcourt.state.il.us/2163/Remote-Court-Hearings>

Twentieth Judicial Circuit Court *(Monroe, Perry, Randolph, St. Clair, and Washington counties)*

Felony Division proceedings resumed June 1 through video conferencing. Here is when each judge is hearing cases (and the Zoom meeting ID to access the video feed):

Twenty-First Judicial Circuit Court

(Iroquois and Kankakee counties)

Hearings resumed June 1 and are conducted via phone and video when possible. **Twenty-Second Judicial Circuit Court**

(McHenry County)

Hearings resumed June 1. Find information about your upcoming court date at this website: <https://www.mchenrycountyil.gov/county-government/departments-a-i/circuit-clerk>

Twenty-Third Judicial Circuit Court

(DeKalb and Kendall counties)

Hearings resumed June 1 and are conducted via phone and video when possible.

COVID-19 NECESSARY TREATMENT AND SERVICES (FROM THE IDOC WEBSITE) We will continue to ensure men and women in custody receive all necessary treatment and services:

Showers

Medical and mental health treatment

Alternative educational, clinical and substance abuse programming

Access to the phone and GTL kiosks

Cleaning supplies

Law Library

Commissary

Please write to us and let us know if you are in fact getting the above mentioned services/access; you can also ask a friend or family member to reach out via our website, www.restorejustice.org.

GOVERNOR PRITZKERS JULY 27, 2020 EXECUTIVE ORDER ON RESTORING TRANSFERS BETWEEN COUNTY JAILS AND IDOC

By the powers vested in me as the Governor of the State of Illinois, and pursuant to Sections 7(1), 7(2), 7(8), and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305, and consistent with the powers set forth in the States public health laws, I hereby order the following, effective July 27, 2020 at 5:00 pm and for the remainder of the duration of the Gubernatorial Disaster Proclamation, which currently extends through August 22, 2020:

Section 1. The Illinois Department of Corrections (IDOC) will resume accepting the transfer of individuals from Illinois county jails. The scheduling of the arrival of individuals from county jails and the intake process to ensure the health and safety of the transferring individuals, as well as all individuals and staff at IDOC, shall be within the sole discretion of the Director of IDOC. In determining the timing of the arrival of individuals from county jails and the specific process for transfers to IDOC, the Director shall take into account several health and safety factors including (a) the capacity and safety of IDOC reception centers, and (b) whether the individuals to be transferred have been quarantined for 14 days and, following that quarantine period, have tested negative for COVID-19 before their transfer to IDOC. All approved transfers to IDOC shall follow the protocol established by IDOC in conjunction with the Illinois Department of Public Health (IDPH), available at <https://www2.illinois.gov/idoc/facilities/Pages/Covid19Response.aspx>. The Director of IDOC will work closely with county sheriffs and other partners in the criminal justice system to determine whether transfer from specific county jails is feasible and to ensure that the guidelines will be implemented.

Note: Jim Kaitschuk, executive director of the Illinois Sheriffs Association, said Wednesday that the new orders stipulation that transfers are allowed within the sole discretion of the Director of IDOC effectively renders the latest executive order inconsequential. *The matter of transfers is now in court.*

VISITING

Visiting was suspended March 14th at all Illinois prisons. It has been a long 4 months and we are all hopeful visiting will resume soon. When questioned on visiting by family members, the IDOC response was they do not have any plans to restore visiting at this time. We realize that in-person visits may be limited to fewer people in the visiting rooms, or be held outdoors; if other public guidance is any indication, masks will have to be worn and other measures put into place to protect you and your visitors that may change the feeling of visiting. Our hope is that IDOC will follow the lead of some other states that have published health metrics that will give us all a sense of what the criteria would be for reopening to visitation, so that we can monitor progress and anticipate when visiting might resume.

From Marshan Allen- Former Policy Director

Hi All,

On June 1, 2010, my tenure at Restore Justice came to an end as I started my new position as a Research and Policy Fellow with [Fair and Just Prosecution](#) (FJP), a project of the Tides Center that brings together newly elected local prosecutors as part of a network of leaders committed to promoting a justice system grounded in fairness, equity, compassion, and fiscal responsibility.

My Wife, Tamala, and I bought a new home and have moved to DC. It has been a real pleasure being a part of Restore Justice and the incredible work it has done over the last few years. Although I will not be in Illinois, I do plan to continue working on justice reform issues important to you and to this State. So long for now.

Best Wishes,

Marshan

From the Desk of Julie Anderson, Outreach Director

It's been over 4 months since the start of lockdowns in the IDOC, I know I for one am so ready to start visiting again. It's been difficult for everyone inside. We had to postpone indefinitely our Menard Family Trip. We will have this trip as soon as it is safe to do so, and once again we will be able to invite family members who have loved ones in Menard to attend the 3 day event. If you have a loved one interested please have them contact me at Restore Justice so I can put them on the list, the space is limited. Since I work in Outreach you might think there is not a lot of outreach to do at this time, actually I have been pretty busy, as you know we read every letter we receive from you even though we are unable to respond individually we try very hard to answer your questions and bring news that matters to you through this newsletter. I am asking if you are released to please drop us a line and let us know so we can update our mailing list, we would love to maintain contact with you in the world. I also try to respond to your family members concerns, so many times I wish I could do more or change things, as you know change is often slow. My son is incarcerated so I know first hand the challenges many of your loved ones face, and during the pandemic worrying is probably the number one. Please let your family and loved ones know we are here for them and if we cannot offer a solution we do offer a shoulder to lean on and a non judgemental ear to listen. Take care of yourselves and wear your masks (I know they are uncomfortable and hot) they are necessary to see you through to the end of this pandemic.

Julie

From the Desk of Alissa Rivera, Communications Manager

Hi everyone, We are thinking of you during these challenging times. Our hearts are with you and your loved ones. In June we released

two reports about COVID-19 in correctional centers. We are glad these reports are out in the world and hope they will lead to change. Our goal is for more early releases, more testing, and more transparency. We will keep pushing for those goals. Please keep updating us through letters, through your loved ones, or through any other mechanisms.

Sincerely,

Alissa

From the Desk of Wendell Robinson, Program Manager

Greetings Fellas/Ladies

Yet another entry, as always I promise to give it to you as I see it. The past COVID months have been difficult for all of us. I can say the virus hasn't affected my person, but it has affected me personally. And fortunately everyone recovered. In that being said, I know some of you share the same sentiments. But for those of you who the virus has affected, and it didn't play out the same way, PLEASE know our hearts go out to you and yours.

As some of you may know, I'm in contact with a lot of people in the custody of IDOC. Which allows me to have access to most of the 28 facilities. So in this moment I would like to give a M-A-J-O-R shout-out to all of you. My reason for saying this is; we've been faced with some unprecedented times. And nowhere is there a playbook to tell people how to deal with this virus. But somehow everyone that spoke with during this pandemic has had nothing but the best of spirits. Regardless what was going on around them or even to them. The tone was the same. To me that epitomizes strength and resilience. I SALUTE all of you. Some of you may not know this, but you all are my STRENGTH. (I literally draw my strength from you) If you all can get up everyday faced with whatever sentence you have and that reality. Then you add a bit of mass hysteria, uncertainty, fear of the unknown (COVID). And you guys still have the fortitude to possess an abundance of spirits. I mean, we all know that life throws us all types of twists and turns, but COVID incarcerated is next level. So truthfully I don't have the room to complain about anything. And thanks to each and every last one of you, for simply just being you. So always remember what you've been through. Until my next entry, I am a reflection of you!

Forever in Solidarity

Wendell

From the desk of Alice Swan, Office Manager

Hi everyone, I have been busy with all kinds of financial stuff recently, which is not terribly interesting, but important to keep our advocacy work running smoothly. Because of extended IRS deadlines, we're just finishing up 2019 filings now. We are changing the RJ fiscal year from the calendar year to July 1-June 30, so as soon as I get 2019 filings out the door, it'll be time to work on the short year Jan-June 2020 filings. This will put us in a good position to have our first non-profit audit after our next fiscal year ends on June 30, 2021. The audit is an important step for a growing organization; it lets donors and foundations know that we are fiscally responsible and transparent about how we manage funds, which makes us an attractive grant/donation recipient. So not the most interesting task, but important! And it means that I'm spending lots of time with Quickbooks and a calculator, drinking gallons of ice water, and taking the occasional silly break to talk into my fan and laugh at the way it distorts my voice, as my home office is not air-conditioned. Stay cool, and stay safe!

From the Desk of Kayla Rueda, Policy Associate

Hi everyone! I hope you are doing well and pushing through this uncertain time. Since the last newsletter, I have become a full-time employee with Restore Justice. I'm very excited to join this team and use my efforts to advocate for all of you. Over the last two months, I have been working on data involving COVID-19 and IDOC. Moving forward, I will be focused on the need for an ombudsman. I will be conducting research and writing about the need for this role. If you have experienced the difficulties of filing a grievance with IDOC please write to me and explain your story. I hope to hear from you. Stay safe and healthy!

Sincerely,

Kayla

From the Desk of Jobi Cates Executive Director

Dear Friends,

This has been a really hard time for everyone, but as Wendell says, your resilience inspires me to get up every day and keep working despite setbacks and apathy that we face in our work.

Today was US Representative John Lewis funeral. He had the New York Times publish his final remarks. I am also inspired by this passage from those remarks: You must also study and learn the lessons of history because humanity has been involved in this soul-wrenching, existential struggle for a very long time. People on every continent have stood in your shoes, through decades and centuries before you. The truth does not change, and that is why the answers worked out long ago can help you find solutions to the challenges of our time. Continue to build union between movements stretching across the globe because we must put away our willingness to profit from the exploitation of others.

With respect and warmth,

Jobi

**We have several interns this summer helping us (and you)! Below is a brief introduction from each of them; feel free to write to them at*

*the RJ address.**

From the Desk of Cate Baskin, Intern

Hello! My name is Cate and I'm a summer intern at Restore Justice. I just wrapped up my first year at Northwestern Law School, and before that, I worked in public relations in Washington, D.C. for non-profit organizations like Habitat for Humanity and No Kid Hungry. With Restore Justice, I'll be working on a variety of research projects on topics such as mandatory consecutive sentencing, solitary confinement and Illinois Freedom of Information Act (FOIA). I'll also be working on various fundraising efforts to further build Restore Justice's capacity to make waves through the criminal legal system. I'm excited to be working with Restore Justice because I'm passionate about reform throughout the system, and I believe that every single person has a right to living a happy, free life. I would love to hear your story. I hope to hear from you stay safe and healthy!

From the Desk of Shreya Chimpiri, Intern

Hey everyone! I'm Shreya Chimpiri, a rising junior at Northwestern University, currently quarantining in Long Island, New York. Since graduating high school, nearly three years ago, my primary passion has been striving to better understand our nation's problem of mass incarceration, the revolving door phenomenon of prison recidivism, and the broken criminal justice system. This summer, I got the opportunity to work in new media and marketing at the Chicago Justice Project. I organize and research for our weekly podcast that focuses on various topics within prison advocacy work with special guests from various Chicago organizations. Through that, I got connected to Restore Justice IL where I hope to do some more on the ground work. The current projects I'm working on include analyzing the connections between youth gang affiliations and long sentences for juveniles and sexual abuse and misconduct in prisons. I'm looking forward to learning more and being the change I want to see in the world. Hope y'all are staying safe.

~ Shreya

From the Desk of Katelyn Schultz, Intern

Hello! My name is Katelyn Schultz and I am a new intern at Restore Justice. I am a rising senior at Northwestern University and am studying psychology and international studies. I am also interested in criminal justice, so working with Restore Justice has been a great opportunity to learn more about the system and what I can do to advocate for justice. One of the topics I will research this summer is about mental health and prison that is, how does IDOC treat its mentally ill population, and how can prison life worsen mental health? I have looked at a few case studies where prisoners had certain conditions when they entered prison, only for them to get worse over time due to abuse and maltreatment. I have also researched the 2016 settlement agreement and Rasha case that force IDOC to follow certain guidelines to improve mental health facilities. If you have any experience with this topic or any information about IDOC's current practices, I would love to hear your story. I hope to hear from you!

From the Desk of Willow So Intern

Hi, I'm Willow So and I started as an intern at Restore Justice a few weeks ago. Next year I will be a senior in high school at Evanston Township and in the past few years I have developed an interest in the criminal justice system and the reformation of it. I've started on a research project on truth in sentencing laws around the country and comparing them to the laws we have here in Illinois. If you have any experiences that you'd like to share, I'd love to read them. I'm really excited to be working on this project and to hear from you all.

RESOURCE: COMMUTATION PETITIONS IN THE AGE OF COVID-19

A Guide for Incarcerated People from the Illinois Prison Project, Updated July 2020

Important: Read this entire toolkit at least two times before you start writing.

This handbook and accompanying template are intended to be used for the preparation of *pro se* commutation petitions. In light of the developing COVID-19 pandemic, hearings are suspended and deadlines are not in effect. This is subject to change without notice.

These materials are intended to be educational only. While we will try to provide you as much information as possible about what we know about clemency generally, we do NOT know the specifics of your situation and the information here does NOT constitute legal advice.

The template will help you to gather the information you need to write a commutation petition and include supporting documents. You should write this petition in your own voice, using I and we. **You must sign the petition before submitting.**

Commutation Petition Checklist

Basic Information

Underlying Offense

Prior Offenses

Personal History

Institutional Adjustment

Medical History most files include a medical review

Parole Plan

What to Know Before You Begin

IMPORTANT: Before you begin, make sure that you have a plan for how you will finalize and send the petition. You may choose to use IPPs Commutation Petition Template below to help structure your petition. You will also need to gather additional documentation, such as letters of support, which will be attached to your petition. **The Prisoner Review Board (PRB) requires that all clemency petitions be typed. We recommend designating a trusted loved one to help gather needed documents (such as letters of support) and to ensure your petition is properly typed and submitted.** You can find more information on how to submit your petition electronically and via mail below the template.

Clemency is the power of the Governor to change a criminal conviction or criminal sentence imposed by a court. Commutation is a type of clemency, specifically the modification of a sentence. If someone's sentence is commuted, that means that the sentence is changed, often to time served so that the person can be released.

Commutation petitions are filed with the Prisoner Review Board (PRB). The PRB makes a confidential recommendation to the Governor. However, the recommendation is not binding. The Governor makes the final decision about all clemency requests. The Governor's authority to grant or deny a commutation petition is limitless, meaning the Governor can commute any sentence at any time, to anything, and for any reason. On the other hand, the Governor can deny any commutation request for any reason, and without explanation. You may find it helpful to remember the saying, Always hope for the best but prepare for the worst.

During the pandemic, the lines have blurred between emergency and non-emergency (regular) commutation petitions; all petitions are on a rolling docket, meaning that petitions are read in the order they are received. Currently, there are no public hearings. We do not know when hearings will begin again. If you are submitting a commutation petition that is directly tied to the COVID-19 pandemic, you may want to label your petition as an emergency petition and state that you are waiving your right to a hearing to ensure that it is not delayed.

Right now (July 2020), there is a high volume of petitions related to medical vulnerability and COVID-19. It is possible that if your petition is NOT related to COVID-19 or medical issues, it may not be to your advantage to submit your petition right now, because it may be seen as less urgent or not a priority. You may want to think about the strategic value in waiting to submit such a petition.

Normally, there is not a hearing on the petition unless someone affirmatively asks for one; either you, the States Attorney, the victim, or someone else. During the COVID pandemic, the PRB has suspended all public hearings and is now considering every petition on a rolling basis.

No. As of the time of this toolkit's publication in July 2020, the Prisoner Review Board has suspended the requirement that petitions be notarized through the end of the COVID-19 emergency. Petitions must be signed by either the incarcerated person seeking relief, or his or her attorney, and must include the following statement: **I declare under penalty of perjury that all of the assertions made in this petition are complete, truthful and accurate.**

Normally, the Prisoner Review Board considers petitions on a three-month schedule, meaning that petitions filed by a certain date are scheduled for a public hearing three months after that filing date. For example, if you file by January 23, your hearing might be held on April 23. The PRB makes a recommendation to the Governor two months after the hearing. The Governor then grants or denies the petition. The Governor is not bound by any timeline or schedule. As of July 2020, there are no hearings, and cases are being considered in the order that they are filed. It is possible that if you request a hearing, your petition will be delayed.

Unlike appeals, commutation petitions are not about winning or losing on legal issues. The goal is to show the PRB and Governor that you have taken responsibility for your mistakes, have been rehabilitated, and that you are ready to re-enter public life. In other words, things that you might bring up in court like your lawyer making a mistake, or your belief that a witness lied probably do not belong in your petition.

You want to explain the current offense in a factual manner. Unless you plan to pursue an innocence claim, a commutation petition should mostly adhere to the facts agreed to in court. The PRB and Governor want to hear about what happened in your life that led to this point, and want to understand your explanation for any mistakes you made, or what was going on at the time you caught this case. The petition should focus on who you are today, your rehabilitation, and your relationships with family and friends.

Yes, if you specifically mark your petition as an emergency petition and waive your hearing. According to the Prisoner Review Board's guidelines, the one-year bar may not apply to emergency filings. However, if you file an emergency petition and it is denied, you will have to wait one year after the denial to file a regular petition.

You can. If you have a pending petition, you can file additional arguments as a supplement to that filing.

Your helper or loved one can find a longer version of this handbook at: illinoisprisonproject.org. He or she can also access updates on our Facebook page by following Illinois Prison Project on Facebook.

You are entitled to a copy of your medical records in general, and from the Department of Corrections. The fastest way to get your records to someone on the outside (like a helper) is to request them directly and then mail them to your helper. You will likely get your records quickly if you only request your current Problem List and current medications, both of which you can obtain from Medical Records.

How to use the below template: *You or a helper/loved one will need to retype the below information into your own document and in your own words. We recommend using the headings below (they are underlined and in bold type). We have put an asterisk (*) symbol next to the required sections that you must include in your petition. The text underneath each heading is IPP's descriptions and*

recommendations, and should be replaced by your own words. We have also included some sample language under several sections that you should feel free to re-write or adapt.

PETITION FOR

EXECUTIVE CLEMENCY RELIEF: COMMUTATION OF SENTENCE

IN THE MATTER OF [FIRST AND LAST NAME]

If you are filing your petition as an emergency petition based on COVID-19, include the following language here, at the top of your petition:

This Emergency Petition for Executive Clemency based on the threat posed by the national and statewide emergency presented by COVID-19 is submitted to the Prisoner Review Board and the Illinois Governors Office by [First Last], [IDOC#], an inmate at [INSTITUTION]. In light of the urgent threat posed to the Petitioner as a result of the COVID-19 pandemic, I waive my right to a public hearing and respectfully ask that the Prisoner Review Board and Governor Pritzker consider this as an emergency petition and therefore expeditiously process this request and grant relief in the form of commutation to time served.

If you are not filing your petition as an emergency, you can just state your personal information and your request for commutation as an introduction.

This Petition for Clemency based on {INSERT YOUR REASON FOR CLEMENCY} is submitted to the Prisoner Review Board and the Illinois Governors Office by [First Last], [IDOC #], an inmate at [INSTITUTION] Correctional Center. I [DO/DO NOT] request a public hearing in this matter. I respectfully request that the Prisoner Review Board and Governor Pritzker process this request and grant relief in the form of commutation to time served.

Name:

Facility:

IDOC #:

Address: **(of the institution)**

Telephone: **(of the institution)**

Date of Birth:

Place of Birth:

Social Security Number:

Aliases:

Prior Military Service:

Prior Clemencies: [month/date of consideration, only if you have applied before]

Marital Status:

Offense:

Case Number:

Date of Arrest:

County of Conviction:

Conviction Type: [jury trial, bench trial, guilty plea]

Sentencing Judge:

Sentence:

Time Served:

Account of the Offense*

This section should provide a detailed description of the offense. You should describe the offense as objectively as possible. It may be helpful to describe the States case against you as well as your own version of events. This should include the dates, places, who was involved, whether there were weapons, if anyone was injured, and all surrounding circumstances. **Unless you have a very compelling innocence claim, most attorneys recommend that a person filing for a commutation petition both accept responsibility for the offense and express remorse. The goal of the clemency petition is for you to gain release, not to challenge your conviction.** Please use active language (I murdered Ms. Decedent) as opposed to passive language (Ms. Decedent was killed.). If you confessed, pleaded guilty, waived an appeal, or did anything consistent with remorse, please highlight that here.

If you intend to legally pursue an innocence claim and are maintaining your innocence (**this only applies to a small number of people**), you may want to use the following language: I have always maintained my innocence in the present offense. [Provide your version of the offense]. The States case against me was that [Provide the states version of events]. Even accepting the States version of events, commutation is appropriate in my case. Although I did not commit the crime for which I was convicted, I take full responsibility for the [show ownership of the mistakes or missteps in your life here] and I have changed because of [describe your efforts towards rehabilitation, recovery, or other changes in your life].

The PRB has access to your arrest record on their own, and will likely look it up when reviewing your petition. However, you should also try to include a list of prior offenses in your petition. For every case in which you were arrested in the past, except traffic cases, provide the following information:

If you do not have this information available, or cannot easily request it, just include what you can remember (you can include a line saying that your records are unavailable right now, but that this is what happened to the best of your recollection).

Case Number:

Offense of Conviction:

County:

Sentence:

Description:

This information should be written out like a story. The more details you can include about your life before incarceration, the better. Below are some questions that are meant to get you started. You are not required to answer each one. You should write in first person (use I and me).

Childhood, Education, and Work History*

Please provide a brief description of your life prior to the offense. The goal here is to give the PRB and the Governor a sense of the person that you are, your relationship with family and friends, and your life prior to this offense. For some people, this history will be a traumatic one; for others, their childhoods and lives generally were not traumatic prior to some triggering event. Either way, strive to show the reader who you were, the circumstances of your upbringing, and the obstacles or strengths that helped shape you. Pictures, certificates, and other visual materials might be useful here.

Finally, discuss any factors or history that may be considered explaining (but not excusing) your offense. For example, you may have suffered physical or emotional abuse, dealt with undiagnosed mental illness, or struggled with addiction. If this was the case for you, please explain that history here. You can share what substances you struggled with, what was happening in your life when you first started using drugs or alcohol, what age you began using, who introduced you to it, and how addiction affected your life or influenced your poor decisions. This information is offered to help the reader understand your conduct, not to excuse it.

Military History

For some, military service is a significant source of trauma. Please provide a description of your military history. Include service dates, ranks, and discharge dates. Highlight any accomplishments or injuries suffered during service. If you suffered PTSD or other emotional trauma as a result of service, please discuss that here. Please discuss any treatment you received from the VA, and explicitly note if you received no treatment. Similarly, if you suffered a physical injury due to your service, please discuss that injury in detail here.

Rehabilitation: You Today*

This is the meat of the petition, and **you should spend the most time and space on this section**. The idea is to give the Governor a robust view of what you have done during the time you were in prison to rehabilitate yourself. Rehabilitation looks different for everyone; some people become artists, some find religion, some become jailhouse attorneys, some work and work to send money home. Some have spent years taming mental illness or addiction, or battling physical ailments. Some mentor other prisoners, some become writers or reconnect with family members how have you spent your time, and how have you changed?

This section has the fewest rules, because the way this looks will really depend on your strengths, interests, and accomplishments. Do whatever you can to creatively convey the remarkable person you have become. If possible and appropriate, include a section about your remorse for your crime.

Physical Health and Care

Describe your physical ailments to help illustrate the way age and/or physical condition affects your life now. Note each of your diagnoses and current medications. Include information about any health condition you currently have that makes you at higher risk for serious complications from COVID-19 (asthma, heart/lung disease, high blood pressure, diabetes, immune disorder, cancer, kidney failure, liver disease, etc.) The idea is to paint a vivid picture of your illnesses. For example, you could say I have so much pain in my hands that I cannot reliably hold a pen, if you have arthritis. If in doubt, include more health-related information than less.

Mental Health Care

You may have suffered from mental illnesses, such as PTSD, bipolar disorder, or addiction, and a diagnosed mental illness may help explain (but not excuse) your conduct in the instant offense. Please discuss any steps that you have taken to address any underlying mental illness. Please include any treatment plan and prognosis.

If you were convicted of a sex offense, please describe every single treatment program in which you participated. Note that there are not enough sex offender treatment programs in IDOC, and that preference generally goes to people with shorter sentences, so it is entirely possible that you have not yet received adequate treatment. Nonetheless, please describe any efforts you have taken to pursue alternative therapies, group work, or efforts you have made to join treatment programs (even if unsuccessful).

This section should explain the reasons that you no longer pose a threat to society, and why you should be released. You may repeat some of the information that you shared above (especially in the rehabilitation section) but this section focuses on the future. The goal is to provide the reasons why you should receive clemency. For example:

Commutation is a change in sentence. Although the Governor can commute a sentence in any way, here, you should state that he or she seeks a commutation to time served. If your sentence is commuted to time served, you will likely be placed on Mandatory Supervised Release for a period of time. You may wish to seek an alternative form of relief, such as a full pardon, or a commutation to a specific number of years of incarceration. If you are submitting your petition as an emergency petition, it is unlikely that such a request will be considered, unless you can tie the request to the public health threat posed by COVID-19.

If you are requesting a commutation to time served, you can use this language: After over [number of years] years in the Department of Corrections, and in light of my transformation while in prison, release is appropriate. For the reasons detailed above, I respectfully request the Governor commute my sentence.

You must include a parole plan for the best chances of success. That means spelling out exactly where you plan to live and with whom (i.e. name, relationship, and address). **The person who will house you should confirm this and provide their address in a letter of support.** Consider including the following information in this section: Will you have your own room? Is the home set up so that you can quarantine upon release, if necessary? Will someone provide financial support while you get back on your feet? If you have a medical condition, how will you be taken care of if released? The purpose of this section is to show that you will be well-supported if you are released and will not go back to jail or prison because you need money or housing.

Although every petition is different, there are certain documents that you might want to consider including as attachments. List attachments here, including letters of support, certificates of accomplishments, medical records, and other documents:

I declare under penalty of perjury that all of the assertions made in this petition are complete, truthful and accurate.

Signed

Date

How to Submit the Petition

We recommend that petitions be submitted **both by mail and by email**, to ensure the quickest consideration. Ask a trusted loved one to be your designated helper, who you can mail your materials to for them to copy, compile, and mail off. They can also submit the petition by email on your behalf. Again, the petition needs to be typed, so if you do not have access to a computer or typewriter on the inside, you will need to have a helper type your petition up for you.

Frequently Asked Questions

How to Write a Letter of Support for a Clemency Case

Letters of Support help show that you have family and friends who love and care about you and who are ready to help you reenter society successfully, such as by providing housing or help finding a job.

Who can write a letter of support? Family members and friends are the best people to write letters, including important friends of the family, such as your pastor or other religious leaders. Children, especially the persons own children, can write letters or draw pictures. Even if they cannot write very much, they can just say how much they miss their parent.

How long should the letter be? People should just say whatever they want to say, and talk about whatever is most important to them. Don't worry about it being too long or too short. Even a very short letter is a good letter!

What are the most important things to say in a letter of support?

Can their letter be handwritten? Yes! But please write legibly.

Must they include their address? They ideally should include their address as part of verifying their identity.

TEMPLATE FOR CLEMENCY LETTER OF SUPPORT:

Governor JB Pritzker

Office of the Governor

207 State House

Springfield, IL 62706

[DATE]

Dear Governor Pritzker,

I am (Explain who you are. your, name, job title, organization, location, and relationship to John Doe.)

I have known John Doe. (Explain how long you have known John Doe; talk about how well you know him, some examples of the activities or interactions you have had with him).

In my opinion, John Doe is.(Give your opinion of John Doe such as work performance, civic activities, attitude and goals, and anything you want the Governor to know. You may want to mention his nature, his learning ability, willingness to learn/work, his trustworthiness, and so on. Has he undertaken efforts at self-improvement? Please use specific examples. If you know of instances where John Doe particularly stood out, mention them. Sound sincere, and be as descriptive as possible, using adjectives and adverbs.)

Support (describe any support you are able to provide John Doe, including employment, financial, or emotional support. If John Doe can live at your home while he transitions back to the community, please identify the neighborhood in which you live, how big your residence is, who else lives in the home (i.e. my children, 8 and 10,), and confirm that John Doe will be able to have a bedroom for as long as he needs).

[Sign and scan signed letter]

NAME

Address (full address)

Restore Justice Foundation
PO Box 101099
Chicago, IL 60610

First Name

Last Name

Email address:

Street Address

City

State

ZIP

Country

United States

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Please leave us a message and we will respond as soon as possible.

Your Name (required)

Your Email (required)

Your Phone Number

Your Message

Submit your email address to be notified of crucial legislative action items, fundraisers, and news about our progress.

[mc4wp_form id="18939"]