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Safe & Just
Michigan

Governor Can Advance Criminal Justice Reform by Unlocking Power of Commutations

Rarely used power could save lives during time of COVID-19

LANSING — Governors have the power to use commutations when they believe justice hasn't been served. However, many governors opt not to issue commutations until their last days in office, allowing the full potential of this tool to go unused. During a webinar Wednesday, state and national experts on commutations, as well as a man who received one himself, discussed the process of commutations in Michigan, how it could be improved, and how commutations could even save lives during the time of COVID-19.

The event was hosted by Safe & Just Michigan, a Lansing-based nonprofit working to end the state's over-reliance on incarceration and to build safer communities for everyone. AFSC-Michigan Criminal Justice Program co-sponsored the event.

"Michigan has more confirmed COVID-19 cases in its prison system than any other state, but 85 percent of the people in prison in Michigan are not currently eligible for parole, so MDOC has no authority to release them," Safe & Just Michigan Executive Director John S. Cooper said. "Executive action is required to release people in this group, so commutations are a critical tool to manage the COVID-19 outbreak in Michigan's prison system and protect vulnerable people within it."

Cooper moderated a panel of experts, including national commutations expert and St. Thomas Law School Professor Mark Osler, Michigan civil rights attorney and University of Michigan Clinical Law Professor Emeritus Paul Reingold, and Michigan commutation recipient and AFSC-Michigan Criminal Justice Program's Good Neighbor Project Director Demetrius Titus.

Since commutation law is decided at the state level, each state has set its own set of standards and practices for using them. While this can make commutation law appear arbitrary

from one state to another, it also means that states like Michigan can also act to improve their commutation laws and practices at any time.

“This crisis, like every crisis, reveals what were always our strengths and weaknesses,” said Osler. “Our failure to let people out of prison when the equities weigh in favor of doing so has always been a weakness. Now, it becomes deadly.”

Commutations in Michigan are often a slow-moving, confusing process for those who attempt to obtain one. It can take years of working with the governor’s office to get an answer, and often, the answer is “no.” But that is a process that can be improved.

“Michigan’s law on commutations is cumbersome and complicated, but what would help the most is having a separate committee — or added parole board members — whose primary job is to actively look for and vet worthy candidates,” said Reingold. “If there is a steady flow of candidates in the pipeline, then the governor is much more likely to wield the commutation power, to good effect for prisoners *and* the public.

Demetrius Titus is one person who received a commutation. His was granted in 2009, after serving 18 years on a drug possession sentence, which was his first and only conviction. Since then, he has become a powerful advocate for others who have turned their lives around in prison and are still waiting for their chance to return home and become a part of their community once again, like he has. Now, however, he hears daily from incarcerated people and their families who are terrified that COVID-19 will cut their dreams short before they get their second chance.

“A person is not the sum of their mistakes. We all have the propensity for change, if only given the opportunity,” Titus said.

The webinar on commutations will be available for replay on Safe & Just Michigan’s YouTube channel, located at <http://bit.ly/YouTubeSJM>.

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Safe & Just Michigan (www.safeandjustmi.org) works to advance policies that end Michigan’s over-use of incarceration and promote community safety and healing. We partner with Michigan organizations and leaders from across the political spectrum, including business and community leaders, faith communities, crime survivor organizations, formerly incarcerated individuals, prisoners and their families, as well as Michigan taxpayers statewide.