

JUSTICE MATTERS

The Newsletter of **PARTNERSHIP FOR SAFETY & JUSTICE**

SPRING 2007 VOL. 9

Formerly known as the Western Prison Project



Who knew how well our transitions were going to go last fall when we began to implement a range of changes? In my second Director's Message, I am pleased to report that the organization is moving forward as strong as ever. We may have a new name and new program structure, but we continue to work hard on the issues we've always cared about.

We've had great success with the media lately. Many of you have seen the front page, lead story in the Sunday Oregonian in April entitled, "Prison Costs Shackle Oregon." The Oregonian followed that story up with an editorial questioning the policies that have led to the state's massive prison build up. And thanks to the dedicated members of our Action Alert Network, the printed letters to the editor in response have been overwhelmingly supportive of the need to re-examine the madness we call mandatory minimum sentencing. Oh, but it gets better... the Register Guard, the state's second largest newspaper, printed an editorial supporting our campaign to change the way juveniles are automatically treated as adults within the criminal justice system.

We seem to be on a roll and turning the tide in the war of words. Public education is key in changing the punishment paradigm, and I believe there is real movement in how the public is thinking about crime and incarceration. It is becoming increasingly obvious that building a humane system focused on prevention will be much more effective at creating public safety than "tough on crime" policies that warehouse prisoners with little regard to their transformation.

Although the legislative session in Oregon is still in progress, I expect that the next issue of *Justice Matters* will be reporting on some significant victories. Stay tuned.

I want to be sure to mention additional transitions in our staff and board. Kathleen Pequeño, after 6 years of incredible work, has moved on to new opportunities. As she adventurously enters the world of non-profit consultation, she remains the editor of *Justice Matters*, very involved with Crime Survivors for Community Safety, and a solid supporter of the organization.

We are excited to welcome Terry Leckron onto the Board. Terry is the Director of Program and Business Services at Central City Concern's West Portland One Stop. She has a deep history of providing re-entry support to formerly incarcerated people and is an incredible addition to our team. On staff, Denise Welch became our Administrative and Development Associate in early 2007. A longtime member and subscriber to *Justice Matters*, she is thoroughly excited about being involved on the staff level.

I hope you enjoy this issue.

David Rogers
Executive Director

Justice Matters *is published quarterly by*

Partnership for Safety and Justice
P.O. Box 40085
Portland, OR 97240-0085
(503) 335-8449
info@safetyandjustice.org
www.safetyandjustice.org

Board of Directors

Anita Rodgers, President, Jim Curtis,
Judy Farrell, Sharon Gary-Smith,
Terry Leckron, Holly Pruett,
Paul Solomon, Taneisha White

Prisoner Advisory Committee

John Castro, Gary Eagle Thunder, Mark Wilson

Legal Advisory Committee

Michelle Burrows, Chair, Dennis Balske,
Tara Herivel, Paul Levy, Julia Lee, Susan Russell,
Edward Sullivan

Staff

David Rogers, Executive Director
Patty Katz, Beyond Barriers Program Director
Terrie Quinteros, CSCS Program Director
Caylor Roling, Prison Program Director
Geoff Sugerman, Special Projects
Lindy Walsh, Administrative Director
Denise Welch, Administrative & Development
Associate

Kathleen Pequeño,
Justice Matters editor

Cover art by Melissa Dow

Layout by Yellowwhat Studios

Justice Matters proofers
Sam Livingston-Gray and Louthea Griffin

Partnership for Safety & Justice unites people convicted of crime, survivors of crime, and the families of both to advance approaches that redirect policies away from an over-reliance on incarceration to effective strategies that reduce violence and increase safety. We are a 501(c)(3) organization.

It's been a busy year so far in 2007, with the legislative session, our "Think Outside the Box" campaign, and all our ongoing work. Here's a program by program report on the early part of 2007.

Crime Survivors for Community Safety

We've been busy down at the legislature advocating along with our allies for more funding for needed services for survivors and their families. But it's not enough to just be in Salem... you have to be prepared in order to be effective. In January we launched a series of workshops, "Everything you ever wanted to know about Oregon's legislative process, but were afraid to ask." We conducted these workshops in Portland, Eugene, and Klamath Falls, bringing together over 70 people from:

- Oregon CURE
- Oregon Coalition Against Domestic & Sexual Violence
- The Attorney General's Sexual Assault Task Force
- Womenspace (a domestic violence program in Eugene)
- Sexual Assault Support Services (Lane County)
- The Lane County Domestic Violence Coordinating Council
- Violence and Abuse in the Lives of Individuals with Disabilities (VALID)

- Klamath Crisis Center
- Bradley-Angle House staff and support group members (a domestic violence program)

We've also been educating legislators about the life-changing positive effects of prison programs. Investing in programs that turn people's lives around just makes sense.

Members learned about how a bill becomes a law, practiced meetings with legislators, reviewed ways of giving effective testimony, and more.

CSCS staff, along with many of the workshop participants were at Salem for Oregon's Sexual and Domestic Violence

Awareness Day on March 15th. Close to 200 people from 40 different organizations were there meeting with legislators to impress on them the need for better services for survivors of domestic and sexual violence. Many of these services are facing budget cuts even as Oregon's prison budget is soaring to new heights. We're working with other survivor organizations to be part of prioritizing healing over punishment.

Prison Program

Thanks to all you Oregon prisoners who filled out our prison medical conditions survey last fall! The response was even better than we had hoped – almost 200 of you returned detailed surveys. We're still pouring through the large amount of information you shared (over 1,000 pages). We're also researching some of the comments and information that people submitted. We'll have more on this project in the next issue of *Justice Matters*.

Oregon's parole board has been lobbying for a change to Oregon law that would strip prisoners of the right to have certain murder review hearings treated as "contested case" hearings. We've been organizing testimony against this restrictive law (Senate Bill 288), letting legislators know that what might sound like a small change will have a big impact on prisoners who are subject to these hearings.

We've also been educating legislators about the life-changing positive effects of prison programs. Investing in programs that turn people's lives around just makes sense. Our members offered testimony to the Public Safety Subcommittee of Ways and Means, and we're keeping up the pressure so that prison programs don't lose out to prison construction.

And as usual, we're receiving hundreds of pieces of mail... every week, and our staff

and volunteers are swamped. If you've written to us from prison in the past few months, you may be wondering where your response is. We will answer your mail as soon as we can, and we appreciate your patience.

Beyond Barriers

Beyond Barriers focuses on eliminating the barriers formerly incarcerated people experience. Our Beyond Barriers program is building on our past work fighting the disenfranchisement of people with past felony convictions (the VOICE project). Now our "Think Outside the Box" campaign is taking on the issue of employment for people with previous felony convictions.

Since last fall, we've been working to get Multnomah County to remove "the box" from the county job applications. "The box" asks job applicants about previous felony convictions -- before it asks about relevant education and on-the-job experience. Our belief is that a prospective employer can ask questions about previous felony convictions at a later time, when they are appropriate. As a large employer in Oregon's most populous county, Multnomah County can be a leader in supporting the successful re-entry of people leaving prison or jail. We can join the growing number of local governments that are realizing that "the box" does not have to be on their job applications for them to screen employees well.

We've been networking with the many individuals, families and organizations affected by this policy, laying the groundwork for our campaign. A growing number of people who have been personally affected by this issue are speaking up about their experience. Our speakers bureau members have addressed hundreds of people, with many more to go. Check out our interview with a formerly incarcerated person on page 19.

Stay tuned for an update on "Think Outside the Box" in our next issue of Justice Matters. If you can't wait till the next Justice Matters, consider joining our alert network (see page 23 for the membership form).



State Senator Vicki Walker addresses the Eugene Community Conversation while making a point about prisoner reentry

Safety and Sentencing

The Safety and Sentencing Program started the year working to bring our members together with legislators in their home districts, to show legislators the growing number of people who are ready for a change to Oregon's criminal justice system. Our "Community Conversations" in Salem and Eugene attracted over 150 people and 9 legislators. The Register-Guard's coverage of the Eugene event mentioned the "eye-popping statistics" we covered, such as the proposed \$1.38 billion proposed budget for Oregon's prison system this next biennium, and talked about the concerns shared by both legislators and the community members who attended. We emphasized that Oregon can't afford to continue on its current course of spending more and more on prisons and prison construction.

We followed up the Community Conversations with our Lobby Day at the state legislature on March 8th. Over 40 of our members met with legislators in 33 separate legislative appointments.

Our members met with over a third of the Oregon legislature in one day. Our members were acknowledged on the floor of the Oregon Senate by State Senator Avel Gordly and in the Oregon House by State Representative Tobias Read. Many legislators were receptive to our messages about the need for smart, sensible criminal justice reform.

By the time our next issue of *Justice Matters* comes out this summer, we'll have more information for you about how these legislative proposals have fared. Can't wait until August to find out? Use the coupon on page 23 to become a member and get our Oregon Alerts, which come out more often. If you have access to the Internet (or your family members do) visit our new and improved online action center. Send emails to decision makers, view all our action alerts, and invite friends to join. Check it out at: www.safetyandjustice.org/getinvolved

What did our members travel to the legislature to talk about?

THE NEED TO REDUCE RECIDIVISM:

Add an additional \$8 million in funding for prison-based drug & alcohol treatment, education, and workforce programs. These programs reduce recidivism and actually save millions of dollars in the long-term.

JUVENILE JUSTICE REFORM:

Passing House Bill 2904 and Senate Bill 1014 would protect the future of our young people while being smart on public safety. These bills will change the way Oregon treats juveniles as adults in the criminal justice system.

INCREASE FUNDING FOR SURVIVORS OF DOMESTIC VIOLENCE AND SEXUAL ASSAULTS:

Improve services for survivors by increasing the ODSVS fund (the state fund for domestic violence programs) in the next budget to \$7.5 million. This fund helps sustain life-saving programs serving domestic and sexual assault survivors.

(Editor's note: this two year budget for survivor services is roughly equal to four days worth of spending on the Department of Corrections in the proposed budget).

PREVENT FUTURE PRISON CONSTRUCTION:

Oregon's next prison is estimated to cost over \$600 million (including debt service) and is currently online for the 2009 budget. If we act now, we can avoid building Oregon's next prison for several years. We need to invest our dollars on smart on crime strategies that more effectively maintain public safety than expensive prisons.



Terrie Quinteros at the Community Conversation in Salem



David Rogers at the Community Conversation in Eugene



Board member Paul Solomon at the Eugene Community Conversation

Idaho

ID: Legislators Tour Prison, See Need for Programs

More than twenty-four legislators took an Idaho Department of Correction bus tour of prisons south of Boise and learned first hand from prisoners and staff about the need to expand access to programs. Legislators visited the Idaho Maximum Security Institution (IMSI), the medium security Idaho State Correctional Institution (ISCI), and South Idaho Correctional Institution's Parole Release Center.

At the Idaho Maximum Security Institution (IMSI), the legislators toured the Administrative Segregation Unit and the mental health section of the prison, C-Block. At least three severely mentally ill people were being locked down in solitary cells in the Administrative Segregation unit because the state's mental health hospital doesn't have the secure facilities to incarcerate them. Staff suggested that much more space for mentally ill prisoners was needed than was currently available. At the Idaho State Correctional Institution (ISCI), the legislators toured a new temporary shelter for minimum security prisoners called a "sprung" building. The building is fabric stretched over a frame, costs close to \$1.5 million, and houses the prison's medical annex and aging prisoners. The governor is suggesting the construction of another "sprung" building to imprison more of Idaho's growing prison population.

At the Parole Release Center legislators met prisoners participating in a 9 to 12 month intensive alcohol and drug treatment program that attempts to prepare them for a substance-free life after prison. The building holds 100 people at a time, and the director says they can't meet even half of the need for treatment in the prison population. People who don't go through this program are 21% more likely to return to prison.

Legislators also learned about a vicious cycle driving the crowding of Idaho's prison system. Prisoners can't be released until they have completed certain programs. The programs don't have enough funding so only two-thirds of prisoners who need programs have access to them. The remaining third stay in prison, sometimes over 18 months past their projected release date, and contribute to the state's expensive prison crowding problem.

Source: *Spokesman-Review*

ID: Prisoner Dies in Texas

An Idaho prisoner confined in a private prison in Texas died on March 4. Scot Noble Payne, of Ada County, Idaho, was found bleeding and unresponsive in the shower at the Dickens County Correctional Center in Spur, Texas. Officials from the prison determined the cause of death to be from self-inflicted razor blade wounds.

Over 100 prisoners are in Spur, and just over 300 Idaho prisoners are incarcerated in the Bill Clayton Correctional Center in Littlefield, Texas.

Source: *Idaho Statesman*

ID: More Prisoners to Go to the Lowest Bidder

Almost 500 Idaho residents are in private prisons in Texas. With no plan for decreasing current and future prison populations, the state plans to export 600 more people by 2010. Where will they go? Idaho's not sure yet, but bidding has begun. Idaho wants to send 100 people out of state by June, and April is the deadline for bids.

Idaho prisons are full, with about 7,000 people incarcerated right now, and there's no slowing of the prison population in sight. In February, the state added 450 more people to the system. To try and

keep up, the state has allocated about \$180 million for 700 new prison beds, but it won't be enough.



That's why the state decided to spend \$2.3 million on sending 100 more people out of state this year and \$8 million on the Idaho prisoners currently in prison in Texas. Keeping someone in prison in Idaho costs \$45 per person per day, and sending someone to an out of state prison costs \$65 a day.

That \$65 a day is considered good business for private corporations like Geo Group that operates these Texas prisons. Buying and selling prisoners is making money for the company. Geo Group recently sold 4.8 million shares of stock at close to \$44 a share.

Legislators have approved some funding for alternatives this session. Two million dollars from alcohol sales were approved for drug and mental health courts.

Source: *Idaho Falls Post Register*

Montana

MT: Supreme Court Sides with State over Prison Transfers

The Montana Supreme Court has rejected arguments by prisoners that transfers to the state's private prison in Shelby constitute cruel and unusual punishment. The court issued this unanimous opinion in March in response to a lawsuit filed by a group of prisoners in 2002. The court upheld a 2005 opinion issued by a federal district judge, and has ruled that the State of Montana has the authority to send prisoners to private prisons and regional jails.

The prisoners argued that transfers from the state-run Montana State Penitentiary to the private prison in Shelby or to regional jails in the state was cruel and unusual punishment because those prisons did not offer programs or did not offer the same quality or kinds of treatment, education and rehabilitation programs as the state prison. The law suit also claimed that transfers to the private prison were being used as retaliation for filing lawsuits.

Source: *Associated Press*

Oregon

OR: Prisoner Suicides Continue

Eighteen year-old George William Miller was found hanging in his cell in the Disciplinary Segregation Unit of Two Rivers Correctional Institution on March 14th. Mr. Rivers went to prison after his probation for robbery charges was revoked in 2006. He was scheduled to be released in 2009.

Source: *Oregon DOC news release*

OR: Bribery, Tax Fraud, and Prison Food

On April 5, two executives from a Los Angeles food distribution company pleaded guilty to federal charges of bribery and tax fraud. The executives were under investigation for bribing and giving kickbacks to the Oregon Department of Corrections food services administrator, Fred Monem. The two executives could receive a maximum of 13 years each and \$500,000 in fines. Mr. Monem has not been charged.

Source: *KGW.com*



OR: College Students go to Prison -- For Class

College students around Oregon are going to prison – for classes. Students from Oregon State University, University of Oregon, and Portland State University are taking classes alongside prisoners in classes that meet in two Oregon prisons.

The classes are based on the Inside Out Prison Exchange Program begun at Temple University. After training with the Inside Out program and planning with the Oregon Department of Corrections, Oregon State University Sociology Professor Michelle Inderbitzin began teaching a class in Crime, Justice and Public Policy to 15 Oregon State University students and 15 Oregon State Penitentiary Students. The class meets in the prison, as students work on collaborative

projects and group discussions focus on issues of incarceration and criminal justice policy

Source: *Bend Weekly*

Washington

WA: Prison Dentist's License Suspended

The Washington State Department of Health suspended the license of Joel O. Diven, a dentist at McNeil Island Correctional Facility. This action was in response to Mr. Diven's potentially life threatening treatment of a patient who was a prisoner. In May, an unnamed prisoner went to the dentist for a tooth extraction. Diven removed the tooth and a portion of the person's jaw. According to state documents, he then abandoned the patient -- who had a compromised airway, dropping blood pressure, and was bleeding. The prisoner had to be rushed to Harborview Medical Center and still suffers pain and other problems related to the botched extraction.

Source: *KGW.com*



National News

A Second Chance for the Second Chance Act?

In past *Justice Matters* and action alerts we've included information about a piece of federal legislation called the Second Chance Act. If passed, the Second Chance Act would provide millions of dollars

to assist states with re-entry programs, programs to help former prisoners gain access to housing, jobs, education, and mental health and drug treatment. With thousands of people leaving prison each year, more resources for transition and re-entry is good public policy.

In the 2005-2006 congressional session, the Second Chance Act didn't make it out of committee. For the 2007 session, the Second Chance Act has been re-introduced in both the U.S. House of Representatives and the Senate. The bill still has bi-partisan support. On March 20, the Second Chance Act of 2007 was introduced to the House as HR 1593. On March 28, HR 1593 passed out of the House Judiciary Committee and will go to the full U. S. House of Representatives for a vote. On the Senate side, the companion bill, S 1060, was introduced to the Senate on March 30th.

Source: *Families Against Mandatory Minimums*

Supreme Court rules in favor of prisoners' abilities to sue over civil rights violations

On January 22, a unanimous Supreme Court issued an opinion that supported prisoners' rights to sue the government for civil rights violations. In *Jones v. Bock, Warden, et al*, the Supreme Court overturned a decision by the 6th U. S. Circuit Court of Appeals that dismissed a number of suits from Michigan prisoners based on the Circuit Court's interpretation of the federal Prison Litigation Reform Act (PLRA).

Congress passed the PLRA in 1995. The law drastically limited a prisoner's right to sue for violations of rights by requiring a prisoner to go through a very long administrative process before a suit could be accepted by a court. According to the Supreme Court, the 6th Circuit had wrongly denied the Michigan prisoners'

access to the court when they dismissed the suits for procedural reasons. In his opinion, Supreme Court Justice Roberts stated that the PLRA does not require a lawsuit to be dismissed just because a person did not go through every administrative channel on every issue.

The cases are *Jones v. Bock*, 05-7058, and *Williams v. Overton*, and *Walton v. Bouchard*, 05-7142.

Source: *New York Times*

A new report from the Pew Charitable Trusts, Public Safety, Public Spending: Forecasting America's Prison Population 2007-2011, suggests that by 2011, the U.S. will add more than 192,000 people to its federal and state prisons.

North Carolina Launches Innocence Commission

Last year North Carolina created an eight person Innocence Commission, the first of its kind in the United States. The commission will consider petitions from prisoners who have exhausted the normal appeals process but have evidence that was not considered at trial. If a majority of the commission members vote in the prisoner's favor, they will send the case to a three judge panel who must unanimously

agree for the prisoner to be released.

The Innocence Commission is modeled after a similar system in the United Kingdom that has been in effect for almost a decade. Its creation was spurred in part by the recent case of Darryl Hunt, who served eighteen years in North Carolina for a murder that was committed by another man.

Source: *Prison Legal News*

Prison Population Forecast: 2.2 million and Rapidly Growing

A new report from the Pew Charitable Trusts, *Public Safety, Public Spending: Forecasting America's Prison Population 2007-2011*, suggests that by 2011, the U.S. will add more than 192,000 people to its federal and state prisons. That means that one out of every 178 people will be in prison. This is one of the many estimates made by reviewing reports on prison population projects for all 50 states and the federal system.

Some of the greatest growth in prison populations is projected to happen here in the west. Montana is number one in the 10 highest growth states with a project 41% increase in its prison population by 2011. Idaho ranks fourth on the list (34%), and Washington is seventh (28%).

Policy decisions made by elected officials are driving the growth of the prison population. The policies listed by the report as most significant for increasing prison populations include moving from indeterminate to determinate sentencing, the abolition of parole and adoption of "truth-in-sentencing" laws, fewer paroles being granted, "three strikes" laws, and the establishment of sentencing guidelines.

Source: *Pew Charitable Trusts*

The Hole

July 22, 2006 as written by FT in the Washington State Penitentiary

When one first steps into one of the segregation units of the penitentiary it's impossible not to notice the smell, loud noise, and attitude of the staff who work there. I have been a prisoner since May of 2005, the hole has been my home for over 2 months now.

A day in the life here seems to drag forever. It's summer here at WSP. The hole is like an oven. The air is hot and humid. The noise starts early in the morning once breakfast is served on the tier. Usually between 6:30 am and 7:00 am.

Only three showers per week, Tuesday, Thursdays, and Saturdays. Later on in the day they start recreation, which is spent out on the tier in an area about 5 times the size of the small cell we spend so much of our time in. Recreation lasts for one hour and you get 5, 1 hour recreation periods per week.

By lunch the unit is sweltering hot. The rest of the day is spent in the cell. The noise and the heat continue long into the night. It cools only to about 80 degrees overnight, and by 9 AM the next day the temperatures are back up into the 90s. The hole stays loud often long into the night, and it's only quiet from about 3 AM till breakfast is served. Then the cycle repeats over again.

Thankfully I'm a DOSA (Drug Offense Sentencing Alternative) offender, so I'm down to 7 months to go till I've served 1/2 of my 60 months, less than 1/3 on account of earned time credit. One bad thing about the hole is that while I'm in here I'm not able to go to my drug treatment groups and AA/NA meetings.

I'm not sure how long I'll have to stay in the hole. I'm classified as a threat to

others and to the orderly operation of the institution, and till they think I'm no longer a threat I've got to stay here. Well, a day in the life is almost over. It's past midnight and technically it's tomorrow now. So I guess I should wrap this up and call it a night.

For all the prisoners housed in segregation units who might read these words, stay strong, much love and respect, hope to be back on mainline soon.

FT: I am a 28 year old white male prisoner serving half of 60 months, with only 7 months left till I reach my Early Release Date.

The Death of "Yellow Man"

April 10 2006 as written by BC in prison in Oregon

I have known J-- since my own arrival at the Oregon State Penitentiary. He was known as "Yellow Man," due to his liver cancer. For many weeks I had been eating meals with J-- and discussing our overlapping backgrounds and times in Corvallis. We were both there from 1960-1965, students in electrical engineering and very fond of math.

His last days were marked with rapid yellow darkening of his "yellow" skin color. On this last day that we would communicate to each other his skin was almost orange, his outlook unchanged, and reality of what was happening was very real.

That day I ate breakfast, lunch, and his last dinner in the chow hall with him. At breakfast we had a rather extensive conversation about engineering, Corvallis, and Measure 11's impact on the Oregon economy. Surprisingly, he was very up to date on the Oregon economical situation and the impact of prisoners like himself on the Oregon budget. He still enjoyed discussing electronics with me as he said I was the first prisoner he had had a

technical discussion with in years.

I had eaten many meals with J-- and was not aware that this dinner was going to be our last together. His appearance was a darker orange, accompanied by duller eyes but a ready grin. We had eaten many times and I had noticed that he was looking in poorer health all the last weeks. Now he seemed grotesque with the wear of many years of imprisonment, poor health, and dental care, and the harshness that ruled most of his life. He did not talk so much about engineering but about his tools in the hobby shop that he wanted to sell, his surviving relatives who were never heard from, and that he was not too hungry and very tired.

We ate together for about 45 minutes. He finished the meal by telling me that I was one of the few he could talk to due to our paths crossing in Corvallis. We shared a town and an education. As we left to return to our cells I believe we both sensed the end of our talks was near.

He was taken from his cell that night and died in his sleep in the prison infirmary at 5:30 AM the next morning. I heard about it at breakfast and started to write about it the same day. He was a subject of discussion for a couple of days and is now forgotten but for a few.

The writer, BC, is in prison in Oregon.

Freezing and Freeze Plus

Father's Day, 2005 as written by RL, in prison in Oregon

9:30 The Sergeant (SGT) we have this week is going cell to cell banging on windows telling people to get off your butts and take that paper off the vent, "I don't care if your freezing to death. Get it Down."

Reality in the hole is dealing with a vent that blasts cold air 24-7 into your rack, wrapped up in your hopefully clean

He's Locked Inside

*May 12, 2003 as written by RC,
who lives in Oregon*

I went to visit my son today
He lives in a place that seems far away
The Columbia River flows nearby
White fluffy clouds fill the clear blue sky
A slight breeze was blowing so soft and free
The scent of the river envelops me

A sign on a post reads "cars must be locked"
The buildings were plain, not as bad as I thought
Which door do I use? I keep reading the signs
I'll follow the others and stand in line
The guard at the desk was very polite
I got through the metal detector alright
She checked my I.D. and gave me a key
I locked up my belongings, this was new to me

The guard took a group of family and friends
Through gates and doors controlled from within
I entered a room with rows of chairs
A guard at a desk said "you can sit there"
The wait wasn't long, I was watching the door
I stood up to meet him as he crossed the floor

A quick little hug then we sat face to face
He told me a lot about life in this place
We talked and we laughed, the time went by fast
It was hard to believe three hours had passed
The guard said "time's up, please step this way"
I touched my son's face and then turned away

Two Rivers Prison is where he resides
Fences with razor wire and he's locked inside
Until my next visit we'll keep in touch
With letters and phone calls, I miss him so much

The writer, RC, lives in Oregon.

blankets. Today's Fathers Day 2005 and I'm a prisoner here in the hole at Eastern Oregon Correctional Institution. The 19-year old, 130-pound kid next door don't seem too happy to have had the SGT wake him up so rudely, sounds like he's talking bad to her. She just called for back-up. Here come's another cop, now they're pulling him out of the cell and taking him somewhere.

The spectacle wakes up both sides of the tier. As he walks by my cell the cop is telling him, "You won't talk to the SGT that way." The kid says a few choice words down the tier. The next thing I hear is a fist striking skin and the kid fall against someone's cell door. The tier erupts with everyone telling the cop what a coward he is for punching a kid with his hands cuffed behind his back.

Paper goes up to cover the 12-inch by 12 inch windows on 70 cell doors. The cops put on their helmets, knee pads, elbow pads, etc. Some went to grab the electric shields they use to pin people to the floor and shock before and after they're cuffed. Others went to grab a chemical agent called "Freeze Plus," delightful stuff really, while you gasp for breath, your lungs are empty and your brain thinks you're dying. Every time you shower for days afterwards your skin burns thanks to the water activated agent.

Here comes the LT trying to tell people to take down the paper covering their windows. Those that tell the LT what they saw happen (in regards to the kid getting punched), were rewarded by being specifically targeted as the first to have

six or seven cops come to their door, open their cuff port, spray them numerous times with Freeze Plus. This escalated matters.

After the first person broke out their cell lights it had a domino effect. Books, mattress were ripped up.

'Bout time to get sprayed and beat up, they are a few cells down. I just keep thinking maybe this will be big enough to make some noise that just maybe the outside world will hear.

Here they come... they only sprayed us three times, the floor is slick with the Freeze Plus. Before I really knew what happened I'm face down with a boot in the back of my neck, another keeps kicking my ribs, another is smashing my toes. My clothes have been ripped away and my genitals are on fire. I'm dragged out to the rec yard where there's a wall with chains with cuffs on the end. I'm left there to bake in sun for hours, some of the first people pulled out are red with sun burn.

When I am able to see I look around and see that some made it out with their pants on, most not. Before the nurse is allowed in to help the wounded I'm thrown a pair of pants. Numerous broken noses, split lips, cut eyes. We found out later that three shifts of cops had to be called in. Night fell long ago and they're still going in on people, they're out of space on the chain wall so they're putting people back in their cells, as I pass the clock on the way in I see it's 12:30 AM.

The writer, RL, is a prisoner in Oregon.

**Interested in
submitting your own
"A Day in the Life?"**

Submissions must be less than 500 words, about one day in the life of a prisoner, person surviving an act of violence or crime, or as a family member. Give us details about what you see, hear, smell. Make the experience real for our readers. Please include a brief description of yourself and let us know whether we can edit the piece, publish it in Justice Matters, or publish it on our website. Please allow up to six weeks for a response.

Youth in Adult Criminal Court A Turn in the Wrong Direction

During the late 1980s and 1990s, states around the country began to re-shape juvenile sentencing and categorize many juvenile offenders as adults in criminal court. “Adult time for adult crime” became the slogan that underscored the shift to a harsher approach to youth and crime. This shift coincided with a spike in juvenile crime that was largely associated with the rise in drug crime seen around the country, and media hype about the mythical youth “super-predator” exacerbated fear-based policies that set our criminal justice system in the wrong direction.

Now, more than a decade later, research shows that treating youth as adults in the criminal justice system is a failed approach to public safety. Yet the impact of such policies still looms large. A quarter of a million teens under the age of 18 are sent to the adult criminal justice system across the nation each year.¹

Oregon embraced this problematic approach in 1994 with the passage of Measure 11. Measure 11 created a set of mandatory minimum sentences for about 20 person-to-person crimes for first-time offenders. This one-strike system automatically treats 15-, 16-, and 17-year-olds as adults as soon as they are charged with a Measure 11 crime.

While intending to be tough, we have forgotten to be smart. As more youth get treated as adults within our criminal

justice system, we see their future prospects for school, employment, and productive contributions to society diminish. Additionally, this approach appears to actually increase the likelihood that young offenders will re-offend, having a negative impact on public safety. Partnership for Safety and Justice has

More than one hundred years ago, the country’s first juvenile court was created in Chicago with the acknowledgement that youth are not finished products and could greatly benefit from education, counseling, training and treatment often unavailable in adult prisons and jails.

been coordinating an effort to change the way Oregon treats youth as adults in the criminal justice system. Several other organizations have been involved including the Juvenile Rights Project, the Oregon Criminal Defense Lawyers Association, and the Oregon Chapter of the National Association of Social Workers. Two different bills have been introduced and are gaining traction in the state legislature.

Policy Solutions for Oregon

“A Second Look”

“Second Look” is an existing policy that could be made available to youth who commit a Measure 11 offense when they are under age 18. Under Second Look, youth who have served half of their sentence would have an opportunity to go back before a judge. If the young offender can demonstrate that he or she has made significant changes in his or her life since the original offense, the judge may permit the youth to serve out the rest of his or her sentence in the community, under post-prison supervision. The young person would still serve the remainder of his or her sentence, but under conditional release. If a condition of post-prison release is broken, she or he returns to prison.

Second Look recognizes that youth can and do change and transform themselves and therefore our system of justice should not be static and inflexible. By re-evaluating the status of juvenile offenders, Second Look seeks to intervene in cases where offenders could be better served with post-prison supervision.

Allow Judges to Determine the Best Approach

Currently under Oregon law, juveniles are automatically waived into adult court when charged with a Measure 11 crime. This process makes little sense given that research shows youth treated as adults are more likely to re-offend. Juveniles should be treated as adults in criminal court only after very serious consideration by a judge who weighs the individual circumstances. Rather than automatically being treated

¹ Wolfson, Jill, “Childhood on Trial: The Failure of Trying & Sentencing Youth in Adult Criminal Court,” Coalition for Juvenile Justice, Washington, DC (2005), p. 7

as adults, youth charged with a Measure 11 crime should receive a hearing so that a judge can determine whether adult court is the best approach for accountability, public safety, and the rehabilitation of the juvenile or whether sending the youth to juvenile court would deliver the best results.

Juvenile Courts Offer an Effective Alternative

More than one hundred years ago, the country's first juvenile court was created in Chicago with the acknowledgement that youth are not finished products and could greatly benefit from education, counseling, training and treatment often unavailable in adult prisons and jails. By 1924, every state but two had approved juvenile courts.² Today juvenile courts are well developed and embrace a balanced and restorative justice approach. Juvenile courts focus on the best results for public safety, youth accountability, and positive transformation. There is a heavy emphasis on public safety, victim restoration, as well as rehabilitation and development.

Sanctions (sentences) in Oregon's juvenile courts are indeterminate, meaning there is no fixed length. Judges work with prosecutors, counselors, and an array of people to determine what is the best approach for dealing with each young person and preventing future offenses. This may mean a year of probation or it could mean several years of detention, but always coupled with developmentally-appropriate intervention programs. Judges make on-going assessments on a case-by-case basis – far from a one-size-fits-all approach.

Voters Want a Change

A poll by Zogby International released in February of 2007 shows that although the public is concerned about youth crime, people strongly support rehabilitation and treatment, not prosecution in adult court or incarceration in adult prison or jails. The poll was commissioned by the National Council on Crime and Delinquency, the oldest criminal justice research organization in the country.³

- By more than a 15 to 1 margin (92% to 6%), the US voting public believes that decisions to transfer youth to adult court should be made on a case-by-case basis and not governed by a blanket policy.
- A majority of 9 to 1 (91%) believes rehabilitation services and treatment for incarcerated youth help prevent future crimes.
- More than 80% of respondents think that spending on rehabilitative services and treatment for youth will save tax dollars in the long run.

National Polls Reinforce Oregon Poll Results

In a poll released by Global Strategies Group in January of 2006:

61% of registered, likely voters in Oregon support allowing a judge to reevaluate a mandatory sentence halfway through its completion (for those who commit crimes when they are juveniles). Oregon is ready for this change.

Supreme Court's Opinion

The U.S. Supreme Court affirmed key differences between adults and juveniles in March 2005 when they struck down the death penalty for juveniles in *Roper v. Simmons*, 543 U.S. 551 (2005). In the Court's 25-page opinion, four pages were devoted to the distinctions between juveniles and adults. Aspects of that ruling are highlighted below:

It has been noted that adolescents are overrepresented in virtually every category of reckless behavior. . . . In recognition of the comparative immaturity and irresponsibility of juveniles, almost every State prohibits those under 18 years of age from voting, serving on juries, or marrying without parental consent.

The second area of difference is that juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure. Youth is more than a chronological fact. It is a condition of life when a person may be the most susceptible to influence and to psychological damage.

The third broad difference is that the character of a juvenile is not as well formed as that of an adult. The personality traits of juveniles are more transitory, less fixed.

From a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed.⁴

Selected quotes from *Roper v. Simmons*, internal citations and quotations omitted.

² Rubin, H. Ted, "Return Them to Juvenile Court," Campaign for Youth Justice, Washington, DC, (2006), p. 14

³ Krisberg, Barry, and Marchionna, Susan, "Attitudes of US Voters toward Youth Crime and the Justice System," National Council on Crime and Delinquency, Oakland, CA (February 2007)

⁴ Ibid., p. 20

Campaign for Youth Justice

An Interview with Liz Ryan

The Campaign for Youth Justice is working across the country for justice for youth, taking on the issue of youth being treated as adults by the criminal justice system. Their director, Liz Ryan, took some time to talk with Justice Matters' editor Kathleen Pequeño about the problems and the progress on this difficult issue.

Justice Matters (JM): Tell us about the priorities of the Campaign for Youth Justice.

Liz Ryan (LR): We're dedicated to ending the practice of trying, sentencing, and incarcerating youth under 18 in the adult criminal justice system. We have four priorities:

One, we raise awareness. People haven't looked at the problems of youth in the criminal justice system.

Two, we want to see reductions in the number of youth in the adult system. We work with campaigns that are working to produce direct results.

Three, we work to reduce the harm caused to youth and children in the adult system. For us that means reducing sentences, supporting second look legislation -- "second look" means youth serving long sentences get their sentences reviewed at some point in their incarceration -- and eliminating "life without parole" for youth.

And four, we're promoting more developmentally appropriate approaches to serving youth, and promoting alternatives to locking up youth in the adult system.

JM: How do you define youth? What should people know about the difference between youth and adults who are in conflict with the law?

The National Council on Crime and Delinquency, the nation's oldest criminal justice think tank on this issue, has reported that the number of youth prosecuted in the adult system has gone up substantially. Forty states now permit or require youth to be placed in a jail pre-trial.

LR: We define youth as under 18. But the science shows that young people's brains are not fully developed until their mid-20's. Let's think about it... when do car insurance rates go down? Car insurance companies know something about young people and cars. They know that young people can make decisions, but impulse control isn't fully developed, and peer pressure has a more profound effect.

Especially in high-pressure situations, decision-making just isn't the same as for older adults. Brain research that's emerged in the last few years bears this out.

Some of these policies and practices that we're seeing cause problems now were passed in response to perceived problems with the youth justice system. But throwing youth into the adult system has created whole new problems. We need changes that make sense for young people... more developmentally appropriate services for youth.

JM: Can you tell me more about what those changes might look like?

LR: We're talking about counseling and treatment in the least restrictive setting, community based alternatives to incarceration, and mental health services -- those are very effective. Many of these youth are not a public safety risk to the community, but so much of the money is going to bricks and mortar--a bigger prison system--that there's less available for other approaches even though they provide the outcome we want.

JM: Clearly part of the problem is the big push over the last couple decades to "get tough on crime." What's been the effect of this?

LR: The impact we're seeing is the explosion in the number of young people in adult jails in our country -- more than 200% in the last fifteen years. The National Council on Crime and Delinquency, the nation's oldest criminal justice think tank on this issue, has reported that the number of youth prosecuted in the adult system has gone up substantially. Forty states now permit or require youth to be placed in a jail pre-trial.

Let's back up 30 years to 1974, when Congress passed the Juvenile Justice and Delinquency Prevention Act. This is federal legislation that governs federal

policy on juvenile justice. It provides money to states for basic services, and it also sets the standard for what protection children should have. Before this law passed, kids were being confined in adult jails, but the public was against that. This law reversed that trend, and set limits. For the most part youth could not be placed in adult jails: youth had to be physically-separated from adults in jails --- they had to be out of sight and out of earshot of adults. The law had limited exceptions, for rural counties, for example. And over the next couple decades, states complied.

Now fast-forward to the era of the “super-predator” myth, when many state legislatures passed laws that automatically bypassed the juvenile justice system. This put decisions into the hands of state legislators and prosecutors, without protection for youth. In three states, if you’re 16, you can be automatically moved to adult system, and ten states do it at 17.

JM: Are there any states that are headed in the right direction regarding youth in the criminal justice system? If so, what types of changes have they made? What do you think the impact is or will be?

LR: I can give you a number of examples of states where the wave of punitive legislation has ended: North Carolina, Illinois, Wisconsin, Delaware. Both Delaware and Illinois are moving to reduce the number of youth in the adult criminal justice system.

The Casey Institute looked at data about youth in juvenile detention in Delaware. Breaking it out, they noticed a bunch of youth sitting in detention for a long period of time, charged as adults. In some cases, youth were waiting up to a year for a date in adult court. Then the adult court judge would review the case and send it back to the youth system based on it not being appropriate for adult court! So they would spend a year locked up even if the appropriate sanction was 90 days. That’s

not fair, not humane. So the state reviewed the law and changed it, acknowledging that these youth should not be in adult court.

In Illinois, a lot of youth lock-up was for drug offenses, it had a racially disparate impact, (so it affected people based on their race). Illinois and Delaware were leaders in taking steps to reverse the trend of youth in adult court. Since then, other states have created commissions to look at the issue.

It’s time for the laws to reflect the science. In many cases, the same people who voted for these laws are still in office, but they need to take into account what we’ve learned since they passed these laws.

For example, North Carolina created a commission, and this commission recommended ways to substantially reduce the number of youth in the adult system. Connecticut has had a commission also. Both of their legislatures are considering legislation this session to address these issues. In Wisconsin, a legislative audit committee is investigating how kids are being treated in the adult system. Right now their state automatically sends 17-year olds to adult court to be tried as adults.

But I’m not getting frantic calls from all over the country like I’m used to hearing. It’s just the opposite. There’s been a recognition -- including the repeal of

the youth death penalty -- that sending youth to the adult system causes serious problems.

JM: If you could make sure every legislator knew three things about youth in the adult criminal justice system, what would they be?

LR: Three things:

- 1- Research shows that sending youth to the adult criminal justice system doesn’t work. It decreases public safety.
- 2- There’s a large number of young people entering the adult court system every year for non-violent crimes.
- 3- The public is overwhelmingly rejecting these policies. They don’t like putting youth in jails and prisons, they want rehabilitation and treatment for young people.

It’s time for the laws to reflect the science. In many cases, the same people who voted for these laws are still in office, but they need to take into account what we’ve learned since they passed these laws. We see that they don’t work, now we have the research that helps us understand young people’s decision-making. Anyone who works with young people knows that this is true -- their decision making is different.

We know a lot more about what works to help young people, but right now, we’re investing in a system that doesn’t work at all, wasting resources and people’s lives. We need to look at community-based models and fund those programs, fund what we know is effective. We’re getting a chance to turn people’s lives around, if we choose to fund what works.

To learn more, visit their website: www.campaignforyouthjustice.org.

How Private Prisons Profit Off Youth

By *Caylor Roling*

A wise person once said to me, “Anyone who looks at a child and sees the potential for profit should be the last person put in charge of that child’s life.” But everyday across the country, private, for-profit companies run juvenile prisons¹ and boot camps, turning taxpayers’ dollars into investors’ profits and turning children into commodities.

In 2003, roughly 1 in 3 young prisoners in the United States were being held in a prison that was run privately, with many of these prisons run for profit. Over 30,000 young people were incarcerated in private prisons, and over 66,000 were incarcerated in publicly-run youth prisons.² And 2 out of 3 of those youth were being held for non-violent crimes (property crimes, drug crimes, and public order crimes.)

Unfortunately, young people in prison are an especially vulnerable prison population, and they have suffered from abuse in both public and private prisons. But, the pressure on corporations to watch the “bottom line” and draw a profit adds an extra layer of danger for youth incarcerated in private prisons. Fundamentally, corporations are businesses, and they’re in it for the money. Anything left over after the bills are paid is profit, so there is tremendous incentive to cut costs and cut corners. This translates into staff members who are paid much less than people who work for the state, high staff turnover, fewer educational, treatment or mental

health programs, and more violent prison environments.

Some of our readers are intensely familiar with GEO Group (formerly Wackenhut) and Corrections Corporation of America

Unfortunately, young people in prison are an especially vulnerable prison population, and they have suffered from abuse in both public and private prisons. But, the pressure on corporations to watch the “bottom line” and draw a profit adds an extra layer of danger for youth incarcerated in private prisons.

(CCA), since both companies incarcerate our some of our Washington and Idaho members in private prisons in Minnesota and Texas. These same corporations run youth prisons in several states, and are major players in the “youth incarceration”

industry. And what are taxpayers getting in return?

The Lawsuits

Because of abuse and sub-standard conditions, both GEO Group (Wackenhut) and other companies that run private youth prisons have paid millions of dollars to settle lawsuits stemming from the abuse of children in their prisons. In 1998, Wackenhut paid \$1.5 million to settle a suit filed by 12 girls who were sexually, physically and mentally abused by the staff in the Coke County Juvenile Justice Center. One guard pled guilty to sexual assault, but the terms of the agreement stated that the private company was not to blame.³ Also in 1998, the Justice Department sued the State of Louisiana over another Wackenhut-run youth prison. The first demand of the suit was for “the State and Wackenhut to: stop using corporal punishment, excessive force, and gas grenades.”⁴

The Scandals

Some of those problems were in the 1990s but GEO Group’s Coke County private prison for youth was back in the news just last month (March 2007) for abuse and mismanagement. In March, GEO fired a Coke County Juvenile Justice Center staffer who had previously been convicted of a sex crime with a child -- only after intervention by the state’s troubled youth commission. The staffer maintained that he had disclosed his previous conviction (for exposing himself to a child while he himself was a juvenile) when he

¹Typically, words like juvenile detention centers, facilities, farms or homes are words used to describe places where young people are incarcerated. In this article, we deliberately use the word prison and prisoners because more and more youth facilities are designed, built, and run like adult prisons.

²Juvenile Offenders and Victims: 2006 National Report, <http://www.ojjdp.ncjrs.org/ojstatbb/nr2006/downloads/chapter7.pdf>

³Friedman, Alex, “Juvenile Crime Pays-But at What Cost?” Capitalist Punishment: Prison Privatization and Human Rights, 2003: 52.

⁴“Justice Department Sues, Files for Emergency Relief to Protect Juveniles in Louisiana’s Jena Juvenile Justice Center,” <http://www.usdoj.gov/opa/pr/2000/March/155cr.htm>

interviewed for the job. Two youth escaped from the facility and were apprehended soon after. Texas is facing an epidemic of abuse reports in its prisons and jails, with thousands of separate reports of abuse (including medical neglect) under investigation by the Texas Jail Standards Commission and other state entities.

GEO Group's infamous youth prison in Michigan, the Lake County youth prison was closed last year as a cost-saving measure by the state shortly after advocacy groups who had been examining conditions there filed a lawsuit. The investigations noted that staffing levels were inadequate, youth were not being housed based on security risk, and youth were attempting suicide at an increasing

rate. The state's argument for closing the prison was that they could save millions by locking up the youth in state-run settings.

One of the most notorious private youth prisons in the country was in Tallulah, Louisiana. Children were forced to fight over scraps of clothes and food, and regularly beaten by guards. A warden who was brought in to change things in 1998 said, "When I got here, there were a lot of perforated eardrums. Actually, it seemed like everybody had a perforated eardrum, or a broken nose."⁵ Parents got together, organized, worked with attorneys, and finally forced the closure of the Tallulah prison in 2004. Unfortunately, it reopened as an adult prison.

The Bottom Line

These infamous youth prisons are especially appalling given that so many people want to see youth in the criminal justice system rehabilitated. The public is eager to see a system that transforms adjudicated youth so that they leave prison and never come back again.

But, it takes a commitment to youth and thoughtfulness to make that happen. A system committed to the rehabilitation of youth spends money in the short term to have a positive effect in the long-term. It can't be a system focused on cash profit. And let's remember: anyone who looks at a child and sees the potential for profit should be the last person put in charge of that child's life.

A New "Market" for Profiting off of Incarcerated Children

Private prison corporations are innovating and going after new markets which, in "corporate speak," means they're looking for more people to lock up. They've found profits and more profits in the form of undocumented immigrants that come with a profitable bonus: their children.

In a CCA prison in Taylor, Texas, the federal government is incarcerating whole families in a former medium-security prison. Children incarcerated in the T. Don Hutto Detention Facility were allowed only one hour of recreation a day behind cyclone fences and barbed wire, and twenty minute mealtimes, with no other nutrition offered during the day. Many were not allowed to go outside at all during December of last year.⁶

Conditions are supposed to improve, thanks in part to a lawsuit filed in federal court in March. Earlier this year the razor wire encircling the prison was removed. In April, a federal judge ruled that the prison is likely in violation of

standards previously set for the confinement of children in immigration cases. A previous court case from 1997 established that children should be housed in non-secure settings such as with relatives or in foster homes, rather than in prison. Although the judge did not order the release of the close to 200 children held at T. Don Hutto, he did affirm that the immigrant families were "highly likely" to prevail in this case, and set an August 2007 trial date.

This can't be good news for operators of this prison, since they may adversely affect the market for incarcerating immigrants, which has been on the rise since after September 11, 2001. But, for the children of people awaiting their immigration hearings, it may be a little good news in an otherwise bleak situation. However, these children will still be in prison for many more months, what might feel like a life time through the eyes of an eight-year old.

⁵ Butterfield, Fox, "Hard Time: A special report; Profits at a Juvenile Prison Come with a Chilling Cost," New York Times, July 15, 1998.

⁶ ACLU of Texas, "ACLU Challenges Illegal Detention of Immigrant Children Held in Prison-Like Conditions," www.aclutx.org

Restorative Justice in Action: the Words and Work of Dennis Maloney

by Arwen Bird

The recent death of Dennis Maloney sent a shock through the national and local community of criminal justice reform advocates. Under Dennis' leadership, Deschutes County's Juvenile Justice System became a national model for community justice in action -- through pioneering programs to get restitution to survivors, give people convicted of crimes skills to succeed in work and life, and heal communities affected by crime. Dennis spent the last decade of his life helping communities across the nation to shift their justice systems to a balanced and restorative approach. We can all learn important lessons about restorative justice from Dennis' words and his work.

If you deny victims' participation in the process nothing good can happen.
 -Dennis Maloney, *Kaleidoscope of Justice*, Summer 1999

Dennis' words reflect his commitment to shift the system to a restorative one, which focuses on repairing the harm done when one person makes a decision to hurt another. In order to do that, the system must ask and listen to crime victims and survivors to find out what they need to heal. Survivors need help for more immediate needs such as shelter care or hospital care; in the long term, we may need help with counseling for emotional needs or job training skills to be able to provide for ourselves. In a restorative and balanced approach, the need



for healing can inform judges about appropriate consequences for people

Dennis' words reflect his commitment to shift the system to a restorative one, which focuses on repairing the harm done when one person makes a decision to hurt another. In order to do that, the system must ask and listen to crime victims and survivors to find out what they need to heal.

who have done harm, and prioritize restitution for that harm. Although some people have focused on involving

crime survivors only to push for longer sentences, Dennis understood that survivors have much more to offer than that. Our participation -- and the truth about the harm that happened -- is an important part of shaping a system that holds people accountable; this can be the first step toward healing for communities, survivors and people convicted of crime.

One day I'd be planning children's services, for which there was a pittance of funding, and the next, I'd be projecting prison spending, with politicians eager to throw money in that direction to appear tough on crime. I found myself planning future jails for my daughter's kindergarten classmates.

-Dennis Maloney on his appointment to a prison forecasting committee while also developing youth programs for Oregon's Commission on Children and Families. *Ideas for an Open Society*, Vol 3. No. 3

Dennis talked often about the fact that the punishment approach of building more and more prisons in response to crime is an expensive, faulty strategy that does not reflect the value of public safety in our communities. Part of creating safety in each community means helping people while they're incarcerated gain the skills they need to engage positively once they are released. It means sentencing people to meaningful community service, such as having young people convicted of crimes build homes for people who need them. Overall, prioritizing quality education is a long term strategy to prevent violence by giving our youth the opportunity to only make positive contributions in their communities.

Oregon spends more state funds on prisons than higher education.

This prioritizing of prison spending over education for young people reflects an overall value structure. Our current values demonstrate that the ‘tough on crime’, ‘let’s lock ‘em up’, approach is being pursued at the expense of programs and policies that will bring healing and safety to our communities, including our education system. Prisons are the most expensive solution to crime, and our children are paying for it. Dennis was an advocate who consistently spoke up about our misplaced priorities in spending for programs and services for youth.

It is indigenous peoples who have been practicing restorative justice, whether in New Zealand or African villages. Desmond Tutu lectures about restorative justice, called Umbutu. The idea is simply that the community is well if the individual is well. If the individual becomes ill, the community becomes ill....Sadly, American criminologists have never really looked to the Native American justice practices.
-Dennis Maloney, govtech.net interview by Steven Ferry March 2001

There is much that we can learn from looking to other cultures for ideas and values to shape our criminal justice system. Early in his life, Dennis worked as a VISTA volunteer with tribes in Wisconsin. There, he had the opportunity to observe a local judge who sentenced youth to community service projects that reflected the culture of the tribe. Dennis used the thinking and traditions that he observed there to shape Deschutes County’s Juvenile Department. Today, Deschutes County has become a national model for restorative and balanced justice. In much of his writings and interviews Dennis talked about the need for systemic change. Whether it comes from people native to Africa or America, there is much our justice system can learn from other

cultures about healing for survivors and communities.

One such example is the Kake Tribe of northern Alaska. The Tribe established a Heart Healing Council, based in Tlingit traditions. Circle Peacemaking, an element of the Heart Healing Council, is practiced with young adults in celebration of successful completion of a sentence

In a ‘community justice’ framework, the people who were harmed (crime survivors) are the primary “customer” of the system, the people who did the harm are held accountable in constructive and meaningful ways and crime prevention is prioritized.

and as healing circles for victims. The person charged with a crime is guided through a group process to determine their sentence and then their sentence is carried out and supervised by the same group of people from the community. Ultimately the person charged with a crime gains a greater sense of connection to the community through the support and consistent presence of circle members. Success rates for this form of sentencing and

supervision are very high, 97.5 percent of people successfully complete their sentence (compared to 22 percent of people in the mainstream Alaska court system). The Kake Tribe provides just one model among many that exist in indigenous communities across the world. Many have been using a restorative approach for centuries and we could learn much from their ways of practicing justice.

With citizens and victims more involved, there is an endless creative energy available to transform the criminal justice system into a community justice system.
-Dennis Maloney *The Emergence of Community Justice, Criminal Justice in the U.S.*

In a ‘community justice’ framework, the people who were harmed (crime survivors) are the primary “customer” of the system, the people who did the harm are held accountable in constructive and meaningful ways and crime prevention is prioritized. This is the system that Dennis dedicated much of his life to create and what Dennis was able to contribute to the world of criminal justice reform is similarly without measure. At the heart of Dennis’ advocacy was a firm belief in the humanity of everyone involved in acts of violence. He worked tirelessly to change the ways that we respond to crime to reflect that value, and there is much we have gained from his life and work. He leaves behind five daughters and his wife, in Bend, Oregon.

To learn more about balanced and restorative justice we suggest visiting www.barjproject.org

Think Outside the Box

An Interview with Sarah

Our “Think Outside the Box” interviews allow formerly incarcerated people to tell their stories to the community, and give our readers the opportunity to meet the human beings who are re-entering the community. – Interview by Beyond Barriers Program Director Patty Katz, March 2007

Patty Katz: *Could you tell me a little about yourself?*

Sarah: I’m a case manager for women and children who have become homeless, and a mother of a pre-teen son. I am a woman in recovery from a seemingly hopeless state of mind and body.

PK: *Could you tell me what you mean?*

Sarah: Nine years ago I found myself face down on the floor with a gun to the back of my head.

To my right lay my nine-year-old niece who also had a gun to the back of her head. My home was filled with police with guns and black masks covering their faces – it was like something out of a movie -- except it wasn’t a movie, it was my life! It suddenly occurred to me that my drug and alcohol addiction wasn’t just hurting me, there were innocent people getting hurt. It was a turning point for me. Over the next five months I was in and out of jail, and Child Protective Services (CPS) took my son away. My family cried, “enough!!” and told me they couldn’t help me anymore. A month before I was transported to prison I was sent to an inpatient treatment center and I finally got clean and sober. I just celebrated nine years in recovery.

PK: *The decision to go into treatment that you made before you went to prison ultimately led to your freedom. What happened?*

Sarah: I’m grateful that I found a 12-step program before getting locked up. I met other people who were just like me – alcoholics and drug addicts – and they were clean, sober, happy and relatively well behaved! It gave me hope that I could live in recovery and learn how to be a good mom. More than anything else I wanted to take care of my son.

I realized that unless I got an education I would always work in low paying jobs with no benefits, so I enrolled in college and four years later I earned my Bachelor’s degree in public affairs.

PK: *What was it like to live in prison?*

Sarah: Being separated from your family and your support system is difficult. It’s frightening to be chained up to six other strangers and put on a bus for four hours. We arrived at this compound of high

towers and razor wire, and I had no idea what to expect.

Prison is a very bleak and controlled environment. All decisions are made for you by someone else – when to sleep, what to eat, when to work, do laundry, get your mail, make phone calls, etc... Decision making was very difficult after I was released, even after doing a relatively short amount of time. I can’t even imagine how this affects people who do a lot of time. Society expects us to get out of prison and get on with our lives – get a job, find housing, take care of children, but my first day out I walked into a grocery store and fell apart trying to decide what to make for dinner.

PK: *Those are the kinds of conditions that destroy people’s souls, how is it you are always in such a positive mood? What did you do to avoid falling into the pit?*

Sarah: Wow, that’s quite a compliment to suggest that I’m always in such a positive mood! That is the direct result of being active in a 12-step program, having a sponsor, working the steps and being of service to others. When I got out of prison I got a crummy, low-paying job with no benefits. I worked there for about a year then was laid off. I realized that unless I got an education I would always work in low paying jobs with no benefits, so I enrolled in college and four years later I earned my Bachelor’s degree in public affairs. That has opened some doors for me, however an education does not erase the fact that I’m a convicted felon, and I still have to disclose this on job applications and rental applications.

PK: *Could you talk more about some of the barriers you have faced because of a past felony conviction? Has it been a struggle for you?*

Sarah: My past felony conviction comes up anytime I apply for employment opportunities or a place to live. The last

time I applied for a job my degree and experience made me very qualified, but three of the questions on the application took away any hope of me getting to have that job:

- Have you been convicted of a felony in the last ten years?
- Have you been released from prison in the last ten years?
- Have you ever been charged with a crime?

When I went to college I thought I could improve my chances in the job market. But since then, most of the places I've applied have a blanket policy of "No Felons!"

PK: Do you get discouraged when you come across these barriers?

Sarah: Yes, I used to get devastated, but today I know adversity is part of life. When I had about three years in recovery, my son Zach entered kindergarten, and I signed up as a volunteer. I filled out the paperwork and a woman from the school board called me and said I was welcome to only drop off my child and pick him up. No volunteering, no classroom parties, no field trips for the next ten years. My son and I were disappointed, to say the very least. I got sober so I could be a better mother to my son and to participate in his life.

Since I was convicted of a crime in 1997, I have completed a treatment program, paid thousands in restitution, and fulfilled all of the conditions of my sentence including community service hours and I've completed my post-prison supervision. I've even had my Washington state civil rights restored, so I can vote.

But I still have to answer the question in

that box that states, "Have you ever been convicted of a felony?" Why doesn't it say, "How have you succeeded since your last

Since I was convicted of a crime in 1997, I have completed a treatment program, paid thousands in restitution, and fulfilled all of the conditions of my sentence including community service hours and I've completed my post-prison supervision. I've even had my Washington state civil rights restored, so I can vote.

conviction?" When does the past become the past?

Patty Katz: Thank you for being so candid and being so willing to let others know the truth.

Want More About Moving Beyond Barriers?

Access Denied in Oregon

Read our 12-page report on the barriers faced by people with previous felony convictions in Oregon, including barriers related to employment, housing, licenses and identification. The report makes specific policy change recommendations, including:

- changes to the practice of barring people from employment based on arrest records that did not result in a conviction
- ending driver's license suspensions for non-driving related crimes
- increasing funding for transitional and re-entry housing
- better preparation of prisoners for re-entry
- changes to the practice of releasing people back to the county of their criminal conviction rather than to the community where they have the most re-entry support

This report is available on our website, and we will mail it to prisoners who request a copy. Please allow time for mailing.

For this issue of *Justice Matters*,

our allies at *Prison Legal News* have allowed us to reprint recent stories from their excellent publication. *Prison Legal News* is an independent, 48-page monthly magazine that has published since 1990. It reports on all aspects of the criminal justice system from all fifty states and around the world. It has the most extensive reporting on detention facility litigation and news of any publication. Regularly covered topics include verdicts and settlements, attorney fees, disciplinary hearings, medical issues, excessive force, death row, telephones, mail regulations, religious freedom, court access, habeas corpus, misconduct and corruption by prison and jail employees, state and federal legislation, the Prison Litigation Reform Act, conditions of confinement and much, much more. Check out these stories, both from recent issues of *Prison Legal News*.

Seizure of Washington Prisoners' Cash at Jail Booking Unconstitutional

by Michael Rigby
Prison Legal News Feb 2007

On August 29, 2006, a federal district court in Washington held that a state law allowing jails to confiscate money from prisoners during booking without notice or a hearing was unconstitutional. In May 2003 the Washington legislature amended RCW 70.48.390, which originally authorized jails to charge a \$10.00 booking fee, to charge up to \$100.00 to cover the cost of booking. According to the statute, the fees were "payable immediately from any money then possessed by the person being booked into jail." Several jails, including the Spokane and Snohomish county jails, have been actively confiscating money under the statute. If the prisoner has no cash at the time of arrest, the fee is deducted from any money family or friends deposit in the prisoner's canteen fund.

One person unceremoniously separated from his money by the Spokane County

Jail is Shawn Huss, who was arrested for alleged domestic violence on October 31, 2004. During the intake process, jailers seized all the cash in his wallet--\$39.30--as partial payment of the jail's booking fee of \$89.12. Huss was not informed the money was taken or that he was entitled to have it returned if he was acquitted or the charges were dropped. When the charges against Huss were dismissed and he was released the next day, the Spokane jail failed to return, his money. In fact, Huss didn't recover the cash--which he says he needed to feed his family--until four months later, and even then it took a letter from his attorney notifying jail officials that the booking fee was unconstitutional.

On June 8, 2005, Huss filed a class action lawsuit pursuant to 42 U.S.C. §§ 1983 and 1988 in the U.S. District Court for the Eastern District of Washington claiming the Spokane jail's booking fee and the state law that authorized it were unconstitutional. Huss specifically claimed the policy violated the 14th Amendment, which prohibits the government from depriving a person of life, liberty, or property without due process of law.

On Huss's motion for partial summary judgment, U.S. District Judge Fred Van Sickle held that because "the statute requires immediate payment of the

booking fee from any money then possessed by the person being booked, there exists no set of circumstances in which RCW 70.48.390 and the Jail's Policy can be applied constitutionally."

Relying on *Matthews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976), in which the Supreme Court outlined three factors relevant to determining whether a person has received due process, Judge Van Sickle specifically concluded that: 1) the statute and policy affect a significant private interest; 2) the risk of erroneous deprivation is extreme compared to the county's interest in augmenting revenue; and 3) neither the statute nor the county's policy requires a pre-deprivation hearing, which due process requires in this situation.

Following the verdict, officials with Snohomish County, which has been charging prisoners a \$10 booking fee since 2001, lamented the ruling could cost the County \$70,000 a year in revenue. No concern was expressed regarding the deprivation of people's constitutional rights. Huss was represented by Breean Beggs, an attorney with the Center for Justice in Spokane. See: *Huss v. Spokane County*, USDC ED WA, Case No. CV-05-180-FVS.

Additional source: The Seattle Times

BOP Mail Rule Banning Internet Downloads and Soft Cover Publications Not Sent by Publisher Held Unconstitutional

by John E. Dannenberg
Prison Legal News April 2007

On October 26, 2006, in an unpublished order, the U.S. District Court (D. Colo.) held that 28 C.F.R. § 540.71(a)(2), which restricts Bureau of Prisons (BOP) prisoners from receiving soft cover publications unless they come directly from the publisher, a book club or a bookstore, satisfies no legitimate penological interest and therefore violated the prisoners' First Amendment rights.

Mark Jordan, a BOP prisoner at ADX Florence, was refused mail delivery containing a 120-page internet essay series entitled "Justice Denied," photocopies of two magazine articles and clippings from articles. None of these materials advanced prison gangs, escape, racism or hatred, or contained pornography. Jordan brought his civil rights claims in federal district court in November 2003. The case went to a one-day bench trial in July 2006.

The court made findings of fact that (1) in January, 2003, the BOP amended § 540.71 to include "[a]t medium security, high security and administrative institutions, an inmate may receive soft-cover publications (for example, paperback books, newspaper clippings, magazines and other similar

items) only from the publisher, from a book club, or from a bookstore;" (2) the regulation's stated purpose was "to reduce the amount of contraband introduced into Federal prisons;" (3) Jordan was refused the above-mentioned mail; (4) Jordan had fully exhausted his administrative remedies; (5) in July 2002, when originally proposing the amended § 540.71, BOP included in its definition of "softcover materials," "clippings, items in paper folders, pamphlets, catalogs, brochures and other items of a similar nature;" and (6) testimony of Florence staffer Mary Sosa revealed that ADX had narrowed this definition sua sponte to exclude the now contested articles. Nonetheless, former ADX Inmate Systems Manager John Lee testified that it was no more likely that contraband would surface in a one-page internet print-out or news clipping than in a one-page letter, nor would it take more time to search the former than the latter.

In January 2006, Florence's Warden issued a memorandum of guidance "due to unsettled judicial issues" [presumably the instant pending lawsuit] that read, "Inmates will be permitted to receive incoming correspondence containing

newspaper or magazine clippings from non-commercial sources" [subject to institutional security and mail volume concerns]. But no official change to § 540.71 was issued by the BOP.

After first determining that the suit was not rendered moot by the Warden's adoption of this new internal policy, the court proceeded to analyze Jordan's claims under the four-part test of *Turner v. Safley*, 482 U.S. 78, 89-90 (1987). Although the court readily found that internet publications were fully protected under the First Amendment, it observed that prisoners were still subject to a "legitimate penological interest" restriction. Reviewing the first *Turner* factor, the court found there was simply no valid, rational connection to § 540.71's source restrictions, other than as to quantity or content. The court found the second *Turner* factor unmet, in that no ready alternative to this source of information was proffered by defendants. (The court cited favorably to PLN's recent case, *Jacklovich v. Simmons*, 392 F.3d 420 (10th Cir. 2004)) for the proposition that TV or radio access was not a substitute for reading newspapers and magazines.) Under *Turner's* third factor, no evidence existed that these items would materially affect guards or the allocation of prison resources. Finally, the court found the fourth *Turner* factor was met (the existence of a ready alternative to the regulation) by the Warden's own January 2006 memorandum.

Accordingly, the court held that § 540.71(a)(2) was overbroad and was not saved by *Turner*. It entered a judgment declaring 28 C.F.R. § 540.71(a)(2) to be unconstitutional as to Jordan's issues and permanently enjoined the BOP from enforcing this restrictive regulation against him. See: *Jordan v. Hood*, U.S.D.C. (D. Colo.), Case No. 03-cv-02320-PSF-MJW.

PLN also distributes books dealing with litigation, self help and the criminal justice system and each issue of PLN contains ads from many businesses and organizations providing services and products aimed at the prisoner market.

Subscriptions for prisoners are \$18 per year (subscriptions can be pro rated at \$1.50 per issue, do not send less than \$9.00); \$25.00 per year for non prisoners and \$60 per year for professionals and institutions.

For a sample copy send \$2.00 to:

Prison Legal News
Dept. PSJ
2400 NW 80th St
PMB 148
Seattle, WA 98117

Prisoner Support Packets

Our Prisoner Support Packet is available to prisoners upon request. Each packet includes a complimentary copy of *Justice Matters*, along with our ten-page Resource Directory that lists:

- Groups in our Region (OR, ID, MT, WA)
- National Organizations, Advocacy Groups
- Child and Family Resources
- Publications/Magazines (including Legal Publications)
- Death Penalty Resources
- Resources for Gay, Lesbian, Trans Prisoners
- Resources for Native American Prisoners
- Resources for Sex Offenders
- Books-to-Prisoners Programs
- Penpal Services (most charge \$)

Youth Justice Report: The Consequences Aren't Minor (Summary)

This issue we featured an interview with Liz Ryan, the director of the Campaign for Youth Justice (page 13). The Campaign for Youth Justice has just released "The Consequences Aren't Minor," a report on the impact of trying youth as adults that also includes key strategies for reform. This report is an excellent national resource for *Justice Matters* readers who want to learn more about this issue. The full report is 104 pages, but a 16-page executive summary is also available. For *Justice Matters* readers who are in prison, we can send you a copy of the summary if you request one via mail. For *Justice Matters* readers on the outside, both the full report and the summary are available at www.campaignforyouthjustice.org.



YES, I WANT TO JOIN PARTNERSHIP FOR SAFETY & JUSTICE!

PO Box 40085
 Portland, OR 97240
www.safetyandjustice.org
 503 335-8449

Name _____

Institution/ID # (if nec) _____

Address _____

Phone _____ H or W? _____

Email _____ Donation amount _____

Suggested membership donations: \$15 - \$35, \$7 for people in prison. We rely on member support --- any gift you make above \$25 helps us a great deal. If you are a prisoner or low-income in our region (OR, WA, MT and ID only), and cannot afford to make a donation, you can still become a member by checking here:

- Contact me about making a monthly pledge using my credit/debit card or checking account!
- Sign me up for the Oregon Action Alert list

Checks/money orders can be made payable to Partnership for Safety and Justice.

You can also give using a Visa or Mastercard by filling in the information below:

Name as it appears on card _____

Signature _____

Visa/Mastercard number _____ Exp. Date _____

THANK YOU FOR YOUR SUPPORT!

TABLE OF CONTENTS

Organizational Update	3
Regional and National News	6
A Day in the Life	9
Youth In Adult Court:	
A Turn in the Wrong Direction	11
Interview:	
Campaign for Youth Justice	
Director Liz Ryan	13
How Private Prisons Profit Off Youth	15
Restorative Justice:	
The Words and Work	
of Dennis Maloney	17
Think Outside the Box Interview:	
Sarah	19
Special Legal Update from Prison	
Legal News	21
Also Available	23
Membership Coupon—Join Today	23

The theme

of this issue is youth justice. We lead off talking about our current proposal for fair treatment of Oregon's youth. Then we talk with Liz Ryan of the national Campaign for Youth Justice to get some historical perspective on youth in the adult criminal justice system. And we examine the effects of private prison companies moving into the growing "market" for incarcerating youth.

We also remember Dennis Maloney, an Oregonian who brought restorative justice concepts to youth criminal justice systems across the country before his untimely death earlier this year. Our "Think Outside the Box" interview features Sarah, who talks about living with a previous felony conviction, and we have a special two-page legal update provided by our allies at Prison Legal News.

As usual, we have several powerful *A Day in the Life* stories sent in by our readers. We hope you enjoy this issue!

Partnership for Safety and Justice /
formerly Western Prison Project
PO Box 40085
Portland, OR 97240-0085

RETURN SERVICE REQUESTED

*If your address label says
expired this is your last
issue unless you become a
member. Join today!*

<p>Non-profit Org U.S. Postage PAID Permit #2543 Portland, OR</p>
