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PRISONS AND CORRECTIONS FORUM

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HIGHLIGHTS

RELIEF FROM THE COLLATERAL CONSEQUENCES OF CONVICTION: EXECUTIVE PARDON

By Margaret Colgate Love, Esq.

Editor's note: This is the third in a series of four articles describing the results of the author's recent study of how a person can seek to "neutralize" the effect of a criminal record in each U.S. jurisdiction. The first article, published in the November 2005 newsletter, dealt with laws limiting, consideration of conviction in hiring and licensure. The second, in the December 2005 newsletter, deal with judicial expungement, sealing and set-aside. The final article will summarize national trends, and take a closer look at several promising restoration schemes.

Pardon is assigned a surprisingly important role in the criminal justice system of almost every state, and in the federal system as well. While most states now allow convicted persons to vote upon release from prison or completion of sentence, other legal barriers to reentry and reintegration are not so easily overcome. As noted in last month's newsletter, a handful of states authorize their courts to expunge or seal adult felony records, after an eligibility waiting period of law-abiding conduct. A few more states allow sealing for minor offenders. New York has adopted an administrative relief system that involves the award of certificates of good conduct by courts and the parole board. But in 42 states, pardon remains the only way that most adult felony offenders can regain the legal status of an ordinary citizen.

In most states a pardon removes legal disabilities and disqualifications. It also evidences good character, so that an employer or landlord lending institution can have some level of comfort in dealing with a pardoned individual. Some states go further and make pardon recipients automatically eligible for judicial expungement of their record. Connecticut, Massachusetts, Minnesota, Ohio, and Washington fall in the latter category. State pardons are given effect in federal law in several important areas, including immigration, firearm privileges, and employment in federally regulated industries like transportation and baking. Under regulations issued by the Transportation Safety Administration, an individual who has been pardoned may qualify for a trucker's hazmat license, an airport security pass, or a job as a longshoreman, no matter what the underlying offense.

But as everyone knows, it is not easy to get a pardon even in the jurisdictions that assign a key operational role in offender reentry. Indeed, in only a handful of states are there more than a token number of pardons granted each year. Some governors have issued no pardons at all in recent years, even

where they enjoy the relative safety of a legislatively designed support mechanism. For example, in Louisiana, Massachusetts and Michigan, the legislature has authorized an administrative board to advise the governor pursuant to a regular administrative hearing process, but the incumbent governor has nonetheless chosen not to exercise the power. Pardons are "exceedingly rare" in Colorado, North Carolina, Tennessee, Vermont, West Virginia and Wyoming – even though there is no other relief mechanism in those states, even for the most minor offenders. In Mississippi, New Jersey and Washington, it has become customary for governors to issue pardons only at the end of their term, and very few are granted even then. New York's governor customarily commutes a handful of prison sentences at Christmas, but for many years has granted no post-sentence pardons. The federal pardoning process has also withered in the past 20 years, producing only a trickle of grants where once there was a steady stream.

The fact is that most chief executives no longer regard pardoning as an integral and routine function of their office. While the modern politician's reluctance to pardon may be attributable to a pragmatic concern about making a politically costly mistake, it conveniently cloaks itself in a notion of pardon as an "extraordinary" remedy that interferes with the proper functioning of the legal system. The public thinks of pardon as a lightning strike or a winning lottery ticket; not a remedy that can reasonably be sought by ordinary people who can meet an objective set of criteria. And yet so many states continue to condition full reintegration after conviction upon this unreliable and inaccessible remedy.

It may come as a surprise to some that there are few states in which pardon continues to function as an integral part of the criminal justice system, and is available to ordinary people with garden variety convictions who can meet the basic eligibility requirements and demonstrate their rehabilitation. With the new interest in facilitating offender reentry and "neutralizing" the effect of a criminal record in appropriate cases, the experience of the states with a regular pardoning practice should be of interest. As will be seen, the key to making the pardon power operational appears to lie in two things: protection from the political process, and regular exercise.

The states that presently treat the pardon power as an integral part of their criminal justice process each issue a substantial number of pardons each, and grant a high percentage of the applications filed. It is no coincidence that in all of these states the pardon process is regulated by statute and operates with a reasonable degree of transparency. In Alabama, Connecticut, George, Idaho and South Carolina, the pardon power reposes in an appointed board, and the governor has no role (except a peripheral one in capitol cases). In Nebraska, the authority to grant pardons is vested in a board of pardons that is composed of the Governor, Secretary of State and the Attorney General. In Delaware, Pennsylvania, and Oklahoma, an appointed board makes binding recommendations to the governor, without which the governor may not act. In Arkansas the legislature requires the governor to consult with the parole board and obtain its non-binding recommendation in each case, and to report regularly on the number of grants and the reasons for each. This regulation seems to give the pardoning authority in each of these states sufficient protection exercising the power. (A chart available on the Sentencing Project's website shows the characteristics of the most active state pardoning authorities. See http://www.sentencingproject.org/rights-restoration.cfm. Idaho does not appear on this chart because of the compara-

tively low absolute number of grants, but it is included here because it acts favorably on 2/3 of the applications it receives.)

In each of the ten states where the pardon power is actually operational, it is administered through a public application process. In all but two, the board responsible for administering the power is required by law to hold public hearings at regular intervals, and to notify the prosecutor and victim. (The Georgia Board of Pardons and Paroles generally considers cases on a paper record, as does the Arkansas Parole Board, though both have the authority to conduct public hearings.)

Most of the pardoning authorities in these states are required to defend their grants by reporting them annually to the legislature, along with a statement of the reasons for each grant. In Arkansas, the governor may not issue a pardon unless he first issues a public notice that provides a statement of reasons for the grant.

Illinois and South Dakota also hold public pardon hearings at regular intervals, but are not counted among the then "operational" boards either because of recent irregularities in the pardon process, or a sluggish pardoning rate by the current governor, or both. The current governors of Maryland and Hawaii have shown a commendable interest in pardoning, despite not having the benefit of a statutory administrative apparatus that would give them a regular stream of reliable recommendations and a measure of political protection.

Particularly since 9/11, there has been increased pressure on the pardoning mechanisms in the 42 states where it provides the only way most offenders can avoid the automatic rejection that generally follows discovery of their criminal record. A number of state pardon authorities reported a surge in pardon applications from people fired or refused employment because of their criminal record, often far in the past and involving quite relatively minor offenses. Employers increasingly rely on criminal background checks to winnow out undesirable employees, sometimes because they are required to by law, but more often simply because they are risk averse and criminal record information is readily available. Yet, relatively speaking, even in the jurisdictions that have reasonably functional pardon procedures, surprisingly few people make use of them make use of them. For example, Georgia grants more pardons than any other state, but the numbers involved are still relatively small: in 2004, the Georgia Board of Pardons and Parole granted 422 pardons (including 39 "immigration pardons"), acting favorably on between 35% and 50% of applications received. South Carolina and Connecticut each granted about 200 pardons in 2004, about 65% and 25% of all applications filed, respectively. It is unclear whether so few people apply because of the time and expense involved, the perceived uncertain prospects of success, the availability of alternative relief mechanisms, the belief that a pardon won't make much of a difference – or some combination of these factors.

For example, the pardon process in Pennsylvania appears to be both fair and accessible. It is administered by capable professionals, is presided over by elected officials who seem committed to the enterprise, and is the only relief available under that state's law. Moreover, a high percentage of those who apply for pardon in Pennsylvania are ultimately successful. Yet the process involves a lengthy and burdensome application process even for misdemeanants and "summary" offenders, including a full background investigation and two public hearings in the state capital. It requires a substantial investment of time and energy each month from the five members of the Clemency Board, which include the lieutenant governor and state attorney general, and the numerous state employees responsible for its administration. A similar seriousness of purpose and formality of process is characteristic of all of the states where pardon remains operational. Perhaps there could be a less cumbersome and expensive alternative for individuals whose offenses are minor and dated, but who are still being denied jobs, loans, and other opportunities because of them.

It is unfortunate that in so many states pardoning has become an almost vestigial function, in light of its critical gate-keeping function for people struggling to overcome the lingering disabilities that come with having a criminal record. As a criminal record is becoming both more common and more disabling, it is essential to have a reliable and accessible way for individuals to overcome the legal barriers to reintegration, and to reassure employers and other members of the public of their rehabilitation. This surely has important benefits for the

community as well as for the individuals involved. A well-administered pardon process can accomplish a great deal in closing the loop on an individual's experience in the criminal justice system, symbolizing a sort of "graduation" back to the legal status of an ordinary citizen. The ten states that have an active pardon docket offer models jurisdictions interested in reviving the power.

On the other hand, pardon was never intended to be anything other than an "extraordinary" remedy, in theory unbidden by the strictures of the law and as such arguably unsuitable for everyday operational use. Pardon is supposed to remedy the occasional malfunctions of the legal system; it is not supposed to substitute for law reform. And, as a practical matter, any program that requires the personal action of the chief executive will never be quite as reliable of accessible as a program this is less politically vulnerable. This was the conclusion of the drafters of the Model Penal Code, when they provided for judicial relief from disabilities, and eventual "vacation" of the record of conviction for someone who had demonstrated his rehabilitation. (See *Starting Over With a Clean Slate: In Praise of a Forgotten Section of the Modes Penal Code,* 30 FORDAM URBAN LAW JOURNAL 101 (2003).

So where does this leave us? I believe that it is evidently too much to ask of pardon that it serve as the primary mechanism for relief from collateral consequences, at least where it remains the sole responsibility of the chief executive. The very fact that so many jurisdictions rely so heavily upon pardon to perform what should be a routine restoration function speaks volumes about the need for law reform. It is shortsighted and potentially dangerous to expect offenders to reintegrate and remain law-abiding, while at the same time depriving them of the tools for doing so. Pardon can be adapted to large scale use by making it more bureaucratic, as the experience of several states shows. But other statutory relief mechanisms, judicial and administrative, may provide even more reliable alternatives. Above all, employers and other decision-makers must be persuaded that it is safe to go behind the fact of a criminal record, to see the entire person. The nuanced case-specific approach taken in the poast-9/11 federal Transportation Safety Administration regulations combines elements of all of these approaches, and will be the subject of the final installment of this series in next month's newsletter.

JEHT FOUNDATION

WHO WE ARE

The JEHT Foundation was established in April 2000. Its name stands for the core values that underlie the Foundation's mission: Justice, Equality, Human dignity and Tolerance. The Foundation's programs reflect these interests and values.

Areas of Interest

Criminal Justice

The JEHT Foundation's Criminal Justice Program works to bring the latest research and best practices to bear to make the criminal justice system more effective to insure public safety and guarantee fairness to individuals. The Program supports parallel funding tracks for juvenile and adult justice, each of which reflects the interests described below. The Program focuses on three phases in the criminal justice process for which appropriate interventions can make a difference:

- The period before final adjudication and disposition, when critical decisions about arrest, conviction, and sentencing are made;
- The period during which people are incarcerated, or under correctional supervision, when the decision whether to prepare people for successful reentry into the community or simply containing and punishing them drives the agenda; and
- The period after people have left incarceration and need assistance to re-enter society and become productive members of their community.

In each of these phases, the policies and practices of the criminal justice system have a significant influence on whether outcomes for the public and for criminal justice involved individuals are likely to be positive or negative. In the areas of arrest, conviction, and sentencing the Foundation focuses on:

- promoting policies and practices that appropriately divert persons from the criminal justice system, particularly in the cases of low-level drug offenders, people with mental illness, and youth;

- ensuring safeguards exist in the system to help reduce racial disparities and protect people from wrongful arrest, unwarranted conviction, and unfair and disproportionate sentencing including with respect to the death sentence; and

- developing criminal and sentencing codes that are understandable, consistent, and just.

The Foundation works to promote more positive prison environments that better meet the needs of those who are incarcerated and the communities to which they will return. Among the areas of specific interest are policies that support improved health and educational services for incarcerated people, humane living conditions, and better access for prisoners to their families. In the area of prisoner reentry, the Foundation's primary interests include support for comprehensive reentry planning and implementation at the state and local levels, and the removal of legal and social barriers to reentry.

International Justice

Despite its widely admired commitments to the rule of law within its own borders, the United States has for most of its history been ambivalent about signing and abiding by treaties or other international instruments. Given the U.S. position, power and prestige in the world, this sense of "exceptionalism" has not been a constructive force for promoting international law as a governing principle either at home or abroad. This program seeks to expand the constructive role the U.S. can play in promoting international justice, human rights and the rule of law both at home and abroad. Specifically, the Foundation considers proposals that promote:

- Better understanding by the American public and government officials of the importance of U.S. participation and leadership in efforts to ensure the rule of law and adherence to human rights and humanitarian standards and norms, both at home and abroad

- Strengthening the U.S. government's commitment to support, abide by, and promote domestic and international mechanisms of accountability, including:

    - Using U.S. courts to try certain human rights violations committed abroad

    - Using International law and mechanisms as a remedy for abuse occuring inside the U.S. ; and

    - Investigating and prosecuting serious human rights violations and war crimes, incuding those attributed to U.S. nationals

Fair and Participatory Elections

This program promotes the integrity and fairness of democratic elections in the United States. The Foundation works with state and other government officials and entities, researchers, and non-partisan reformers to:

- Insure technical integrity of elections by professionalizing the administration of elections, insulating them from partisan political control, and supporting independent structures to oversee elections and related functions;

- Reduce administrative, statutory, and structural barriers to participation to enhance fair representation and transparent, competitive elections; and

- Support reforms and internal controls in government to increase elected officials' responsiveness to their constituencies, free of conflicts of interest or influences inconsistent with democratic ideals.

Palliative Care

This program seeks to expand and strengthen the use of palliative care in a variety of health care and community settings in the U.S. Palliative care is devoted to relieving suffering and supporting the best quality of life for patients with advanced chronic illness and their families. It delivers continuity and quality of care across health care and community settings; manages pain and other symptoms; and supports complex medical decision-making and communication among patients, families, social service providers, and medical professionals.

- In May, 2006 the Foundation made seven grants to support the sustainability of centers of excellence on palliative care in health care institutions throughout the country that can provide training for institutions seeking to create palliative care programs. New proposals in this area are not currently being accepted.

- The Foundation is also interested in supporting policy research and advocacy on palliative care that informs public dialogue on palliative care, promotes it in health care institutions and community settings, and encourages its eligibility for public and private health care funding streams. Proposals in this area are considered by invitation only.

HOW WE APPROACH GRANTMAKING

The Foundation recognizes that systemic and social change requires a long-term perspective and strategy and, at the end of the day, a measure of patience, luck and good timing.

With this in mind, the Foundation makes a combination of multi-year and one-time grant commitments for general operating support, project support, capacity building, and special needs and opportunities as they arise in its fields of interest. We support collaborations and coalition building when they serve to avoid duplication of effort and strengthen a specific goal. The Foundation does not set limits on the size of its grants or on the number of years it will consider supporting an organization. Each request will be considered based on its merit, relationship to the Foundation's goals, the need, the ability to advance the work of the field, and the Foundation's available resources.

The Foundation entertains proposals that fall within the program interests described above and that make use of one or more of the following approaches:

- Innovative, focused, results-oriented public education and advocacy that takes into account:
    - The political economic and social environment in which the work is occurring and the readiness for change
    - Existing public opinion or other research that informs the advocacy agenda
    - The constituencies that need to be engaged to effectively promote the goals and how best to engage them
    - Messaging and other communication strategies appropriate to the issues, audiences and goals that have been set
- Litigation and other legal strategies that bring to bear U.S. law and/or the application of human rights norms, standards and methods as applicable both before domestic courts and/or regional or international fora
- Development or use of practices based on evidence-based research that offer alternatives to current policies and practices and that have the potential to be taken to scale and inform policy decisions
- Conceptual or applied research that illuminates problems or issues and/or suggests promising solutions to policy issues
- Convenings that bring together key stakeholders - from government officials, to community leaders, to researchers, to advocates - for the express purpose of sharing information, developing joint strategies or implementing programs
- Planning and technical consulting services directly related to strategic efforts to change systems
- Evaluation directly related to informing change efforts and or promoting an environment for taking changes to scale

While the Foundation's style is flexible and open, we do expect that applicants carefully review the program interests before submitting an inquiry to ensure that their work corresponds to our goals. We further expect work plans to reflect a realistic view of the organization's institutional capacity to carry out the proposed work.

CREATING A SEAMLESS TRANSITION FROM PRISON TO COMMUNITY

A conversation with Warden Vasbindet; Cotton Correctional Facility; Warden Curtis, Cooper Street Correctional Facility; and Deputy Riley, Parnall Correctional Facility on how the prison and parole staff is working together to reduce crime.

The Michigan Prisoner ReEntry Initiative (MPRI) has brought positive change to prisons. Today, prisoners in the MPRI program prepare to successfully transition back to their communities while they are still in prison. "Before the MPRI, prisoners were paroled and there wasn't the type of preparation there should have

been. Prisoners left prison and then began to try to find a job, get back with their family, address a substance abuse problem while returning often to the same environment that led to crime in the first place," observed Warden Curtis. With the MPRI, prisoners prepare for employment, family reunification, and substance abuse recovery prior to release.

Transition Accountability Planning

Through the MPRI, local transition teams comprised of community service providers, come into prisons to work with prisoners on issues that, *if* left unaddressed, may lead to crime. "There is no magic wand to make every prisoner successful; we are dealing with human beings but Transition Teams increase a prisoners' likelihood to becoming a productive citizen and to not recommit crime," said Warden Vasbinder. Deputy Riley commented that, "the MPRI fights crime by getting to the root of the problems that lead a prisoner to crime." At the Cooper Street Correctional Facility, four Parole Agents actually have an office in the prison. They work with the Resident Unit Managers, the Assistant Resident Unit Supervisors, the Transition Team and the prisoner to develop a Transition Accountability Plan (TAP). The TAP is completed using a number of different sources:

- A COMPAS Risk Assessment is given to establish what criminogenic needs exist
- Prisoners are interviewed
- Past records are reviewed
- The family situation is taken into account From this information, the TAP is developed with the prisoner. "People need to understand, people in prison have had problems in life and have been unsuccessful in life. Each prisoner has different needs and the MPRI addresses their specific needs through the TAP," said Warden Curtis.

U.S. SUPREME COURT ACTIVITY

JONES V BOCK, 05-7058
decided January 22, 2007

Reviewed by Daniel Manville

In the case of **Jones v Bock,** #05-7058(3 consolidated cases), the U.S. Supreme Court had to decide 3 issues involving the Prison Litigation Reform Act of 1995("PLRA"), 110 Stat. 1321-71, as amended, 42 USC § 1997e et seq. Specifically,
1) Is exhaustion under the PLRA a pleading requirement a prisoner must satisfy in his §1983 lawsuit or is it an affirmative defense the defendant must plead and prove? 2) How much detail is required in a grievance to put the prison and individual officials on notice of the prisoner's claim? and, 3) What does the PLRA require when both exhausted and unexhausted claims are included in the §1983 suit?

BACKGROUND:

The petitioners, Lorenzo Jones, Timothy Williams and John H. Walton, were inmates in Michigan prisons and filed grievances using the Michigan Department of Corrections ("MDOC") grievance process. When they were unsuccessful in seeking redress through this process, Petitioner Jones filed a §1983 suit against six prison officials. Four of them were dismissed on the merits; for the remaining two, the Court found he had failed to adequately plead exhaustion in his complaint. Timothy Williams filed a §1983 suit after his two grievances were denied. The District Court found he had not exhausted his administrative remedies with regard to one grievance because none of the MDOC officials named in the lawsuit had been identified during the grievance process. Even though the court found Williams had properly exhausted as to the other claim, the entire suit was dismissed under the 6th Circuit's total exhaustion rule for PLRA cases. John Walton's §1983 suit was similarly dismissed under the total exhaustion rule because his MDOC grievance named only one of the six defendants in the lawsuit.

The 6th Circuit affirmed each case, relying on its procedural rules that require a prisoner to allege and demonstrate exhaustion in his/her complaint, permit suits only against defendants previously identified in the prisoner's grievance and require dismissal of the entire action if a prisoner fails to satisfy exhaustion as to any single claim in his/her complaint.

In it's opinion of January 22,2007, the U.S. Supreme Court reversed the 6th Circuit's draconian requirements for exhaustion by holding that the 6th Circuit rules are not required by the PLRA and imposing such rules exceeded the proper limits of their judicial role. As to each of the three issues, the Court held:

(a) Failure to exhaust is an affirmative defense under the PLRA, and inmates are not required to specially plead or demonstrate exhaustion in their complaints. Because the PLRA is silent on whether exhaustion must be pled or is an affirmative defense, is strong evidence that the usual practice of regarding exhaustion as an affirmative defense should be followed;
(b) Exhaustion is not *per se* inadequate under the PLRA when an individual later sued was not named in the grievance. At the time of filing the grievances in these cases, MDOC policy did not specifically require a prisoner to name anyone in the grievance and the PLRA does not have such a policy. The applicable procedural rules that a prisoner must follow are defined by the prison grievance process itself, not the PLRA. Woodford v Ngo 548 U.S. ____, ____.(2006).
(c) The PLRA does not require dismissal of the entire complaint when a prisoner has failed to exhaust some, but not all, of the claims included in the complaint.

What does this mean as to prisoners who had their lawsuits dismissed under the draconian requirements of the 6th Circuit? First, when the lawsuit was originally dismissed for failure to exhaust, it would have been dismissed *without prejudice*, meaning that once the prisoner had properly exhausted, they could refile the lawsuit. The Jones decision requires that now, a prisoner's lawsuit must be processed as to the officials and claims that have been properly exhausted.

Second, if the Michigan 3-year statute of limitations for filing a §1983 lawsuit has not run (that is, 3 years from the time the case was dismissed without prejudice), a prisoner should file a *"Motion for Relief from Judgment"* in accordance with Rule 60(b)(6), of the Federal Rules of Civil Procedure. Prisoners should remember that if their suit was dismissed for failure to exhaust, that rule has now changed, and their lawsuit should be considered on the merits as to the claims and defendants that have been properly exhausted.

Third, it is suggested that at the time of filing the Rule 60(b)(6) motion, the prisoner also should file a *"Motion for Waiver of Filing Fees"*, since they were required to pay a fee when they filed the original suit that was dismissed and, the dismissal was due to the 6th Circuit's exhaustion requirements that exceeded the court's judicial authority and have now been reversed. In their motion, prisoners should emphasize that they should not be penalized because of the 6th Circuit's erroneous interpretation of the PLRA.

A LOCAL BUSINESS HELPS REDUCE CRIME

For over 30 years, Cascade Engineering has produced plastic parts for furniture, automotive, solid waste materials and industrial markets, Since 2000, they have also worked to improve their community by getting welfare recipients and former prisoners back to work.

At Cascade Engineering, they believe in thinking outside of the system. "If the system isn't working, let's think outside the system," said Ron Jimmerson, Manager of Community Partnerships & Workforce Diversity. Their focus on system improvement fits well with the Michigan Prisoner ReEntry Initiative (MPRI) that is working to link former prisoners to businesses willing to hire them.

Corporate Citizens

Fred P. Keller, Chairman & CEO of Cascade Engineering, believes companies are corporate citizens and therefore need to be part of the solution to the problems that plague a community. Cascade Engineering funds the Community Partnership and Workforce Diversity Department headed by Ron Jimmerson. This department helps local businesses understand the value of hiring former prisoners and assists them in developing equal employment opportunity policies for that purpose. Through its Foundational Training program, individuals are trained in diversity, behavior, attitude, language, and dress and job skills needed to work and fit into a middle class business setting. Jimmerson said they experience a 97% monthly retention rate for people who have completed this training course in Cascade Engineering's Welfare-to-Career program, and they look for the same impact with the MPRI program.

Work with Kent County MPRI

Cascade Engineering works with Kent County MPRI Community Coordinator, Yvonne Jackson, to identify men and women prior to release from state prisons who can enter the training program. "Problems like crime, school dropout rates and welfare rates affect the community, so Cascade Engineering has created training programs that help to lower those rates," commented Yvonne Jackson. Michigan Works! also assists former prisoners with felony records who are currently in the community and struggling with barriers to employment. Through this partnership, individuals receive training from which to build upon, regardless of where they are in their reintegration into society. The Reentry Roundtable of Kent County recruits businesses in the Kent County area to hire former prisoners who have completed the training course. These businesses count on receiving workers who have been trained and who will continue to get support while they work.

Less Recidivism

According to Jimmerson, many people who return to prison did not have a job at the time of their conviction. By training former prisoners and preparing them for work, the recidivism rate will be lowered, decreasing crime, making safer communities, and providing a savings totaxpayers. It takes businesses like Cascade Engineering to get involved in training and employing former prisoners to create safer neighborhoods and better citizens.

To learn more about Cascade Engineering's programs, contact Ron Jimmerson, atjimmersonr@cascadeng.com or visit Cascade Engineering's website at: www.cascade.com

MPRI & LAW ENFORCEMENT: CREATING SAFER NEIGHBORHOODS TOGETHER

By Peggy Schaffer
Berrien County Community Coordinator

The Berrien County MPRI builds on strong partnerships with state county, and local law enforcement to increase public safety and prisoner accountability.

Building : Partnerships, Takes Time

Partnerships with the various law enforcemeet agencies within Berrien County did not develop overnight. When the Michigan Department of. Corrections (MDOC) closed the corrections center in Benton Harbor, the law enforcement community was disappointed. The main concern from the Sheriff's Department was that the already overcrowded countyjail would be the sole resource to house former prisoners who had violated their parole. "When the MDOC shut down the corrections center; it put the burden on our county jail for parole violations and took away an option for the road patrol officers when they encountered a former? prisoner," explained Berrien County Berrien County Sheriff Paul Bailey.

Accountability is the Key

Thus, the Berrien County Sheriff's Department became involved in the MPRI Steering Team almost immediately. Chief Deputy Samuel Harris of the Berrien County Sheriff's Department is a member of the Steering Team. "Accountability is the key. Each parolee must be held accountable to the conditions of parole and to the community. . .the MPRI will motivate returning prisoners to not repeat their crimes, and will get the community involved in the care and supervision of parolees."

The Responsibility Is on the Parolee

"When the community coordinator started contacting me, I had some apprehension. I 've been in law enforcement for 35 years and have seen many programs come and go. So I thought, there is another program, more meetings, and more things to take up my time. But the more I found out about the program, the more I thought if this doesn't work, nothing will," said Chief Al Mingo, Benton Harbor Police Department. "By looking at the needs of prisoners and planning for their release by addressing those needs, the responsibility is on the parolee to succeed. There are no excuses."

Peg Schaffer, Berrien County Community Coordinator states, "From a public safety perspective, law enforcement agencies county wide are willing to work with the Field Agents to increase the prisoner's perception of accountability. Under the MPRI the local parole office has agreed to share basic information such as criminal history and home addresses of high-risk former prisoners with local law enforcement. Extra patrols have already begun in the evenings and on weekends in areas where there is a high concentration of parolees."

Sheriff Bailey adds, "Law enforcement is also willing to do home checks on off hours and on the week-

ends, when former prisoners know the parole office is closed."

Rojelio Castillo, Berrien County Parole Supervisor explained, "Visits by a police officer an d: Field Agent traditionally were for arrest, but can now be focused on addressing parolees' adjustment Mike· community. It is anticipated there will be a development of mutual trust within the community and the former prisoner will strive towards becoming a more productive member of the community." trust within the community and the former prisoner will strive towards becoming a more productive member of the community."

SAFE HOUSING - SAFE NEIGHBORHOODS

By Pat Eagan
Capital Area Community Coordinator

"We are fortunate in Ingham County to have Ferris Development provide transitional housing for homeless parolees in the Capital Area. Historically, homeless parolees reside in shelters which not only creates a burden for the parolee but in some cases sets them up for failure. With the assistance of Ferris Development, through the MPRI funding, the chances of successful re-entry of the parolee increases significantly because we are providing a stable residence when needed. Transitional housing is one of many tools used to assist the parole agent in providing effective case supervision for the individuals who have no other family or financial support," states Stephen A. Robinson, Supervisor Ingham County Probation/Parole/CRP Office.

A Safe, Clean Place

"In collaboration with the Lansing Parole Office and local law enforcement, we create a halo of scrutiny around the houses, so that troublemakers and their friends find it uncomfortable," said Ferris' housing specialist, Don Williams. "We provide a safe, clean place from which a returning client can get their feet under them. As a result, we have had no crime problems and good relations with our neighbors." The focus is to find a job and their own place to live. Their clients are allowed to stay in the housing for up to 60 days and only if they comply with strict house rules.

Providing Structure to Returning Prisoners

The house has a set of rules that must be followed, plus residents must comply with all the MPRI program requirements and parole conditions. The MPRI program requires that participants seek employment, and once employed, save their earnings to have the first month's rent to move into their own place. Ferris Development assists their clients find apartments that are safe and affordable, and assists in communications with the property owners.

Serving the Community

Since first accepting their clients in January 2006, Ferris has provided transitional housing to more than 40 people. "Don Williams has done an excellent job of managing the transitional housing," said Roger Newcomb, Director of Ferris Development. "What he does is more than managing — it's mentoring." Williams believes that the most important quality that he brings to his job is his passion. "I have a passion for the people involved, the people who have made mistakes. The program is about people. Not prisoners, numbers, parolees, or clients, but people. In order to do this job, you have to know that it could be you in their shoes."

WHAT IS PRISONER REENTRY?

Prisoner re-entry is the process of leaving prison or jail and returning to society. All former prisoners experience re-entry into the community whether they are released on parole or without supervision. With successful re-entry, there are great benefits to the community including improved public safety, a tremendous cost savings by reducing the chances for recidivism, and the long-term reintegration of the former prisoner.

The MPRI Vision

The VISION of the Michigan Prisoner ReEntry Initiative (MPRI) is that every prisoner released from prison will have the tools needed to succeed in the community.

The MPRI Mission

The MISSION of the MPRI is to reduce crime by implementing a seamless plan of services and supervision developed with each prisoner–delivered through state and local collaboration–from the time of their entry into prison through their transition, reintegration, and aftercare in the community.

HANG UP EXCESSIVE PRISON PHONE FEES

A few states, including New York and Washington, are backing off policies to virtually extort exorbitant phone fees from the families of prisoners. Michigan ought to follow suit.

The current system is not only an unfair burden to low-income families but also a barrier to the re-entry and rehabilitation efforts trumpeted by the Michigan Department of Corrections. Studies show that inmates who maintain regular family contacts are less likely to reoffend.

Through commissions - a nice word for legal kickbacks - state corrections departments have made big profits from phone systems. Michigan makes roughly $10 million a year of its exclusive agreement with Sprint, about half of what the phone company collects from inmate calls.

Most of this money comes from the families of inmates, either directly when inmates call collect or indirectly through prepaid debit calls.

Inmates themselves generally earn less that $1 a day working at prison jobs. There's no real justification for charging them six times as much to use the phone.

Prisoners can't get incoming calls, and outgoing calls are monitored. In Michigan , a 15-minute prison phone call, the maximum allowed, costs the typical inmate nearly $8. Michigan's current system started in 1991 under then Gov. John Engler. Before that, inmates made collect calls and paid pretty much what the rest of us paid.

To be sure, taxpayers should not have to subsidize prison phone calls. But neither should the state make millions of dollars off them, while helping to sever the family and community ties that help offenders succeed after they're released.

A group of plaintiffs in the federal District Court in the District of Columbia, *Write v. Corrections Corp. of America*, initially brought a lawsuit seeking relief from these exorbitant rates The judge in that case told the Federal Communications Commission "to resolve the core issues in this case, namely the *the reasonableness of the rates charged* and the feasibility of alternative telephone arrangements in facilities.

According to Deborah M. Golden, Washington Lawyers Committee for Civil Rights & Urban Affairs, "inmates telephone service now stands in isolation as the last remaining telecommunications monopoly niche. In every other type of telecommunications service there is competition which drives down the price. Because there is no competition, and prisons and phone companies argue that it is not possible to allow competition, we have asked that the FCC limit interstate phone rates to no higher than $0.20 per minute for debit calling and $0.25 per minute for collect calling, with no set-up or other per-call charge. We suggest slightly higher rates be allowed for service providers offering prisoners a certain amount of free calling.

We ask that prisoners have access to debit calling service. A common problem is that prison telephone providers block collect calls to numbers served by some local carriers, blaming a lack of billing agreements. Because debit calling enables the service provider to collect the charge up front, a debit calling option would avoid this blocking."

You can find more information by going to the FCC website for electronic filing. www.fcc.gov/cgb/ecfs/ and searching on the docket number, 96-128 in the various tabs.

Reader submissions are welcome.
Please send to:

Prisons & Corrections Section
Michigan State Bar
P.O. Box 12037
Lansing, MI 48901.

THE THREE-PHASE DECISION POINT MPRI MODEL

The MPRI Model involves improved decision making at critical decision points in the three phases of the custody, release, and community supervision/discharge process.

Getting Ready

The institutional phase describes the details of events and responsibilities that occur during the prisoner's imprisonment from admission until the point of the parole decision and involves two major decision points:

1. Assessment and classification: Measuring the prisoner's risks, needs, and strengths.
2. Prisoner programming: Assignments to reduce risk, address need, and build on strengths.

Going Home

The transition to the community or re-entry phase begins approximately six months before the prisoner's target release date. In this phase, highly specific re-entry plans are organized that address housing, employment, and services to address addiction and mental illness: Phase Two involves the next two major decision points:

3. Prisoner release preparation: Developing a strong, public-safety-conscious parole plan.
4. Release decision making: Improving parole release guidelines.

Staying Home

The community and discharge phase begins when the prisoner is released from prison and continues until discharge from community parole supervision. In this phase, it is the responsibility of the former prisoner, human services providers, and the offender's network of community supports and mentors to assure continued success. Phase Three involves the final three major decision points of the transition process:

5. Supervision and services: Providing flexible and firm supervision and services.
6. Revocation decision making: Using graduated sanctions to respond to behavior.
7. Discharge and aftercare: Determining community responsibility to "take over" the case.

STATE RECEIVES JOB TRAINING GRANT FOR THE MPRI

Recently, Michigan was awarded a $750,000 grant from the Joyce Foundation to conduct transitional employment programs for former prisoners. Due to the leadership of the Granholm administration, Michigan is one of five recipients, nationally, to receive this grant to provide temporary, subsidized employment combined with education, counseling, and placement assistance for former prisoners. This program will provide an excellent tool to assist in getting former prisoners working.

Beginning in January 2007, Wayne County MPRI partners will begin enrolling former prisoners from the Mound and Ryan Correctional Facilities. The "Ready4Work" program will, test two different approaches to help former prisoners obtain employment, retain employment, and advance to better employment.

Programs Will Be Evaluated

The five programs will be evaluated by MDRC, a New York-based *research* and evaluation firm, in collaboration with the Urban Institute and the University of Michigan. Evaluators will examine long-term employment, income, and incarceration rates for participants who complete transitional job programs and will compare them to those who receive standard job placement services.

Identify What Works

The results of the study, due in 2009, should both establish whether transitional jobs are effective and, by comparing different initiatives, identify models that work especially well and people who benefit most.

The evaluation is jointly funded by the Joyce Foundation, at $2.3 million over four years; the New York-based JEHT Foundation, which is contributing $1.1 million; and the U.S. Department of Labor, which is committing an additional $99,500.

Participants Assigned Randomly

In Wayne County, the programs will be administered by Goodwill of Greater Detroit, Inc. and Jewish Vocational Services, Inc. Participants will be randomly assigned to either job group. Enrollment will begin in January 2007 and run through the year.

To sign up for the Re-Entry Policy Council's newsletter, visit this site and click on: "Register" http://www.reentrypolicy.org/

Michigan Seeks to Improve Services for Children and Families of Prisoners

According to the U.S. Department of Justice, more than seven million children in America have a parent who is incarcerated or under criminal justice supervision. Researchers at the Oregon Social Learning Center report that these children may be at greater risk for depression, aggressive behavior, withdrawal, and criminal involvement. At the same time, caregivers for children of incarcerated parents often do not have sufficient resources to meet their basic needs.

MICHIGAN SEEKS TO IMPROVE SERVICES FOR CHILDREN AND FAMILIES OF PRISONERS

Effective programs and strategies to support the needs of prisoners and their families are essential to reducing delinquency and intergenerational incarceration. Indeed, prisoners who maintain family ties have shown to be less likely to recidivate.

Michigan Prisoner ReEntry Initiative

Officials from the Michigan Department of Corrections (MDOC) have taken steps to address these issues by developing programs in collaboration with human services agencies for children and families through the Michigan Prisoner ReEntry Initiative (MPRI). Last December, MPRI representatives participated in a forum hosted by the Council of State Governments (CSG) in San Diego to help state corrections and human services administrators identify ways to improve outcomes for incarcerated parents and their families. Following the meeting, the MPRI outlined its goals regarding children and families in its Issue Brief, "Children and Families: Coping with Prisoner Re-Entry." The Issue Brief, which draws heavily on the Report of the Re-Entry Policy Council.

The MRPI recently received technical assistance from the CSG, with the help of expert consultant Dee Ann Newell, co-founder of Arkansas Voices for Children Left Behind, to develop a family advocacy program in Michigan. The family advocacy program will ensure that families not only have access to legal assistance, but also to support groups, child-centered visits, parenting classes, and family reunification sessions in order to strengthen relationships between the children, parent, and caregiver.

The CSG will continue to provide Michigan with technical assistance to support the program's implementation.

To learn more about the Re-Entry Policy Council's recommendations relative to involving children and families in the re-entry process.

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THE MICHIGAN PRISONER REENTRY INITIATIVE; CREATING SAFER NEIGHBORHOODS AND BETTER CITIZENS

The Michigan Prisoner ReEntry Initiative (MPRI) has brought positive change to prisons. Today, prisoners in the MPRI program prepare to successfully transition back to their communities while they are still in prison. "Before the MPH, prisoners were paroled and there wasn't the type of preparation there should have been. Prisoners left prison and then began to try to find a job, get back with their family, address a substance abuse problem while returning often to the same environment that led to crime in the first place," observed Warden Curtis. With the MPRI, prisoners prepare for employment, family reunification, and substance abuse recovery prior to release.

Transition Accountability Planning

Through the MPH, local transition teams comprised of community service providers, come into prisons to work with prisoners on issues that, if left unaddressed, may lead to crime. "There is no magic wand to make every prisoner successful; we are dealing with human beings but Transition Teams increase a prisoners' likelihood to becoming a productive citizen and to not recommit crime," said Warder Vasbinder. Deputy Riley commented that, "the MPH fights crime by getting to the root of the problems that lead a prisoner to crime." At the Cooper Street Correctional Facility, four Parole Agents actually have an office in the prison. They work with the Resident Unit Managers, the Assistant Resident Unit Supervisors, the Transition Team and the prisoner to develop a Transition Accountability Plan (TAP). The TAP completed using a number of different sources:

- A COMPAS Risk Assessment is given to establish what criminogenic needs exist
- Prisoners are interviewed
- Past records are reviewed
- The family situation is taken into account From this infonnation, the TAP is developed wit] the prisoner. "People need to understand, people in prison have had problems in life and have been nsuccessful in life. Each prisoner has different needs and the MPH addresses their specific needs rough the TAP," said Warden Curtis.

MPRI Sites

Community Coordinators

To get involved in the MPRI contact the Community Coordinator in your area.

Berrien County
Peggy Schaffer
499 W. Main Street
Benton Harbor, MI 49022 (269) 927-1064 ext. 1180
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Calhoun County
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wa l laccsa @ michigan.gov

Capital Area
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Genesee County
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Nine-County
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Oakland County
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Washtenaw County
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Ann Arbor Parole Office
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Wayne County
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(517) 373-3653
www.michigan.gov/reentry

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MPRI Resource Team Questions
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