



## IOWA CITIZENS UNITED FOR THE REHABILITATION OF ERRANTS

*An Effort to Reduce Crime Through Criminal Justice Reform - 2011*

### THE FUTURE OF IOWA STATE PENITENTIARY

On a picture perfect day in April Iowa Department of Corrections staff and board, employees of the Penitentiary, the Governor of Iowa and other State dignitaries, architects, members representing local labor groups, and other guests gathered on the site for the new Iowa State Penitentiary. There were many speeches with congratulations all the way around as the ground was broken for this new \$116 million project. The low bid for the contract for the actuarial construction has gone to Walsh Construction of Chicago. The new prison is scheduled to open in July 2010. Michael Fitzgerald, Treasurer for the State of Iowa assured the crowd that the new project will be paid with court fines and fees so "if you don't break the law you won't be among those footing the bill."

At a meeting of the Board of Corrections which followed the groundbreaking we were given a design update. It was as follows:

1. Direct supervision of offenders in all new housing pods and a unit management system that will enhance offender control and the overall delivery of correctional services.
2. Efficiency sized and safer housing pods.
3. Multi-disciplinary staff who work on the units with offenders.
4. A unit manager with true administrative authority and supervisory responsibility.
5. Offenders assigned to management units based on security and programmatic needs.
6. Balance of decentralized and centralized treatment and program services.
7. Offenders will participate in a full day of constructive programming, work, and activities consistent with their individual needs, those of the facility and evidence-based policies.

Just what does all this mean? Over the past several years we have heard conflicting statements regarding just what will happen at the new ISP and who will be housed there. Statements have been made that "95% of lifers will be at the new ISP." According to the "Final Operational and Architectural Program" which can be found on the Iowa DOC website: ISP will be the primary facility to house the vast majority of maximum custody offenders within the DOC system. Very few maximum custody offenders will remain at other facilities, unless there is a pragmatic reason, e.g., sex offenders at Clarinda."

At the BOC meeting, Unit Manager Steve Young, a member of the ISP Transition Team, stated that lifers get too comfortable at ISP and they should work to move through the level system. Speaking at the ground breaking ceremony Mr. Baldwin said that the new ISP would have high quality education, treatment and job training programs to prepare prisoners for re-entry. Why would these programs be at ISP when the new SLIM program is being promoted by the IDOC and is based on the idea that prisoners will move from maximum to medium, and then discharge from minimum security before being paroled?

The CCU will be "re-purposed" to become a "Reintegration Unit for long term administrative segregation and disciplinary detention offenders from THROUGHOUT the IDOC system." (The CCU was never designed to be a mental health treatment unit. It was designed to be a control unit.) Supposedly the programs will focus on preparing difficult offenders to integrate into the general population. According to the plan most current CCU offenders will be transferred to Clarinda, Mount Pleasant, or IMCC depending on the nature of their disability. The 96 highest custody offenders with mental illness in the system will be housed in a new, specially designed housing unit within the secure perimeter of the ISP. Recently Director Baldwin spoke of a unit for prisoners with dementia being a part of the new complex.

There will be 5 management units, Maximum(Orientation and Special Needs) 232 beds, Maximum Custody 224 beds, High Medium Custody 256 beds, Medical/Mental Health Housing 56 beds, Reintegration Unit and John Bennett Unit 260 beds. (Farms 1 and 2 have been closed.)

Concern has been expressed concerning the possibility that some cells will be double bunked. The plans call for some double bunking at the high medium security level, in the special needs area and in the medical unit. Plans also include, outdoor passive activity yards for fresh air and limited exercise for each pod. Each management unit will typically have 4 pods. Each unit will have the basic things needed on a daily basis while other important services such in-patient medical care, industries and vocational training will be centralized to save money and operation expenses. There will be both contact and non-contact visiting. Iowa CURE has a concern regarding whether this facility will be staffed at a level that will allow it to carry out the mission that has been outlined. We also question whether the building of a maximum facility is consistent with goals of creating a high quality re-entry program where prisoners move from the higher security levels to minimum and then back to the community.

## **A NEW ERA BEGINS FOR IOWA CORRECTIONAL INSTITUTION FOR WOMEN**

On July 15, 2010 ground was broken at the Iowa Correctional Institution for Women for a construction and reconstruction project which will attempt to bring all prison services for women in the Iowa Correctional System together in one location for the first time in Iowa's history. When the project is complete women will be brought directly to ICIW for classification rather than going to Oakdale. The women now assigned to the special needs unit at prison in Mt. Pleasant will be housed on the ICIW campus. There will also be a state-of-the-art mental health management unit designed to meet the specialized needs of offenders with a range of mental health diagnoses. There will be a focus on women receiving educational and vocational training, including training in non-traditional vocations.

There will be direct supervision of offenders, and unit management system that will enhance offender supervision, treatment, and overall delivery of correctional service with the goal of preparing women to successfully integrate back into the community. The campus will be environmentally friendly inside and out. There will be indoor and outdoor visiting and children's play areas. There will be an emphasis on natural light, soft colors and openness.

The project is expected to cost \$67 million dollars which will come from I-Jobs and will be paid back with gambling funds. The contract for the construction has been awarded to Walsh of Chicago, the same company that is building ISP. The plans are very exciting. It will be good to have building environmentally friendly which allows in light and air. Statistics show that being housed in an environment that has the feeling of home rather than that of a stark, cold, institution does have a positive effect on recidivism. We are excited about the plans for quality mental health, education, vocational training and treatment. We just hope that, when the buildings are complete, there will be funds to provide the highly qualified staff to provide the programs that are needed to make a difference in the lives of the women who enter the doors.

### **Waterloo Women's Center for Change**

Construction of the new Waterloo Women's Center for Change will be complete this summer. It will have 45 beds and all women will go to the new Center. It will provide space for supervision and treatment of high risk offenders in the Waterloo area. The focus will be on gender responsivity. The fact that women are relational will be recognized. When the women move into the Center this will open up space for 26 male offenders in the existing facility. Unfortunately the money for staff has not yet been allocated. Until the facility can be staffed it will probably be used for office staff.

### **GRAHAM DECISION IMPACTS SEVEN IOWA PRISONERS**

On May 17, 2010 the U.S. Supreme Court ruled in *Graham v. Florida* that it is unconstitutional to sentence youth who did not commit homicide to a sentence of life without parole. There are currently 129 juvenile offenders throughout the country who have received such a sentence. Seven of them, all men, are here in Iowa. Four received an IWOP sentence for 1st

Degree Kidnapping and the other three had an additional charge of 2nd degree murder. The Court found that sentencing juvenile offenders to life without the possibility of parole for non-homicide offenses is a violation of the "cruel and unusual cause of the Eighth Amendment" and stated that "a life without parole sentence improperly denies the juvenile offender a chance to demonstrate growth and maturity."

The Court goes on to state that, while a juvenile offender is not given a "guarantee to eventual freedom, the law does require that the state provide "some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation."

Iowa does have to respond to this decision, but it appears it will not be easy to come up with a solution. Several of the cases have already gone to court and judges have ruled that the current sentences are illegal based on the Supreme Court decision. Several bills have been introduced in the legislature which attempt to set a minimum number of years that a juvenile offender would have to serve before being eligible for parole. Iowa County Attorneys have pushed a bill that would have the sentencing judge determine a sentence ranging from 30 to 45 years. However judges in Iowa do not currently have this kind of discretion in sentencing. Also it is doubtful that this would be seen as being in the spirit of the *Graham* decision which states that the sentence should be given a "meaningful opportunity to obtain release."

Originally bills were filed in both houses of the Iowa Legislature that called for a minimum of 25 years before a prisoner was eligible to be CONSIDERED for parole. The Iowa County Attorneys' Association has been pushing for a sentence of 35 to 40 years. We do not feel that this could be considered a "meaningful opportunity for release" and we anticipate that such a sentence would be challenged by the courts. It has been suggested in the Senate that this be reduced to 15. It could be that the 25 will be a compromise. Rep. Mary Wolfe says that she thinks that some people believe that such a law would mean that individuals would be released after only a few years, Wolfe said, "But the way the parole boards are hanging on to inmates, the idea that having a chance to go before the parole board somehow means he or she is going to automatically get out is just so not what's going to happen."

Members of the Justice Reform Consortium and which includes Iowa CURE, and the Iowa Coalition 4 Juvenile Justice are working hard for a meaningful and just response to the *Graham* Decision.

We are following two other cases of juveniles serving LWOP which are currently on appeal. The appeal trial of RuthAnn Veal of Waterloo has been postponed until May of 2012 because of the similarity of arguments to the appeal trial of Edgar Concepcion Jr. of Charles City. Both were charged with first degree murder at the age of 14. Concepcion is now at the Iowa Medical and Classification Center. Iowa Lifers are usually sent to the Iowa State Penitentiary to serve the first 10 years of the sentence. We question whether it is appropriate for youthful offenders to be sent to ISP.

## **5TH INTERNATIONAL CURE CONFERENCE HELD IN ABUJA, NIGERIA**

The 5th International CURE Conference was held in Abuja, Nigeria from February 21 to 24 with approximately 150 persons from 25 countries in attendance. CURE have chapters in many states in the U.S., 20 African countries, Brazil and India. The theme was "Human Rights, Criminal Justice, and Prison Reforms." We were hosted by CURE Nigeria which is lead by Syvester Uhaa, Country Director. Each session was opened with prayers by leaders from the Nigerian Christian and Muslim faith communities and leaders from these communities spoke of their views of justice and their work in the prisons.

The host country of Nigeria has a population of 20 million people. They were under British rule until 1960 when they got their independence, but had a series of military governments until 1999. The capital city of Abuja was built in the center of the country 20 years ago so that it would be in "neutral" territory. The population is 48 per cent Muslim, 35 per cent Christian and 18 per cent other indigenous religions. Eighty per cent of Nigeria's 60,000 prisoners spend an average of 3 to 5 years in pre-trial detention. Most are too poor to afford counsel or the bribes necessary to obtain medical care and family visits.

A common theme ran through the information share by representatives working for prisoner reform around the world. People in prison, for the most part, come from the poorest levels of society, there is tremendous overcrowding, and a lack of access to the courts. Prison serve as mental institutions, overuse segregation, and, in the case of some African countries, there is a severe lack of food.

There was a reoccurring theme of hope running throughout the conference. Over and over we were reminded that prisoners' rights are human rights. We learned that there are 300 Catholic Chaplains working in Nigeria prisons and we learned of many Catholics who work as volunteers in prisons in Brazil. Mr. John Clark, former Warden at Marion Prison in Illinois, spoke of the number of young people attending the conference and their enthusiasm and dedication to working to reform the system. He feels this bodes well for the future of prison reform. He said he believes that those working in prison administration should be encouraged to work with advocates, rather than fear them..

Jody Kent of the Campaign for Fair Sentencing of Youth gave an update on the response to the Graham Decision and Jean Basinger spoke about the need to ban the use of shackles on pregnant women in prison during labor and delivery. Maurice Washington, President of Washington, D.C. said that when the U.S. gives food and medical aid for AIDS treatment to African countries a certain amount should be designated for those in prisons.

The group had the opportunity to tour a juvenile detention center for 400 Nigerian boys. There is no such facility for girls. The staff said that they have academic and vocational training courses, but the facilities looked very barren and we were not

allowed to talk with the boys. They did seem to have lots of space, fresh air and a field for sports activities.

The group issued a communiqué with a number of recommendations regarding prison reform. Those of you who are members of CURE will be receiving much more information about the conference and future plans in the National/International Newsletter. I felt very privileged to represent Iowa CURE at this Conference.

## **LOOKING AT THE EFFECTS OF HUMAN DIGNITY IN PRISON REFORM A COMPARATIVE STUDY OF PRISONS IN FINLAND AND THE USA**

What follows is a summary of a report given at the 5th Annual International Conference of CURE held at Abuja, Nigeria, Feb. 19-24. This report is the result of a body of research done by Dr. Richard Jones of Marquette University, USA and Dr. Ikponwosa O. Ekunwe, U of Tampere, Finland. They compared the prison systems in the USA and in Finland. In the sixties both countries decided to liberalize the treatment of offenders. Finland has stayed on that path and now has the lowest recidivism rate in the world; however in the seventies in the U.S., something went radically wrong. The prison population skyrocketed as a result of the war on drugs. This resulted in the building of many new prisons to house low level drug offenders who were sentenced to prison. Another factor was a report by R. Martinson published in 1972 in "The New Republic" entitled, "The Paradox of Prison Reform," which said that "nothing works" when it comes to rehabilitation of prisoners. This idea was embraced by many in corrections in the U.S. and helped to turn the U.S. toward punishment rather than rehabilitation.

This was not the case in Finland where loss of liberty IS the punishment for breaking society's laws.. In the U.S. people are sent to prison to be punished and as a result there is psychological damage. The human dignity of the prisoner is forgotten and people come out worse than when they went in. . In Finland the goal is to make the prison as normal as possible, to look like home. There is to be respect for human dignity. In the U.S. prisons are designed to look as different from the outside world as possible, often they look like castles or are cold and grey.

In Finland prisoners have a right to fair hearings. C/Os show respect for their dignity by using their names rather than their numbers. They make personal connections. Prisoners are expected to be busy and to earn money to take care of their families. They receive a living wage for their work and pay rent just like in the free world. Some even buy homes for their families from wages earned while they are in prison.

Education is free and they can earn bachelor and even upper level degrees. They have free health care. The prison staff works in cooperation with all kinds of organizations on the outside. A huge number of government funded programs are offered in prison and the prisoner can continue participation in these programs when they leave prison. Professionals meet prisoners at the gate and work with them on substance

abuse, job placement, etc. People are often released 6 months early under extra supervision. They live at home and can go to work, church, etc.

By contrast the researchers found that in the U.S. effective treatment programs, education and vocational training programs are scarce with more money being spent on bricks and mortar. Prisons are run like military camps with staff being given military titles. In the Finnish system, juveniles are seen as needing special protection, but in the U.S. prisons they are seen as young adults. It is difficult for prisoners to get education unless they have their own source of funds. They must pay for medical care. Jobs are often scarce and when they can get jobs, they are paid slave wages. Prisons are usually away from population areas and this divides families. Long sentences are another cause of failure to keep family units intact and inability of the offender to successfully reenter society.

In Finland, the goal of the prison system is to help the offender become a "better Finn." Recognizing the human dignity of the prisoner seems to be the key. Other European countries are using the Finnish model. It seems logical that everyone could agree that we would like the goal of our prison system to help offenders become "better Americans." Sounds like a win-win solution, doesn't it?.

## **HANSEN HOUSE OF HOSPITALITY CELEBRATES 30TH ANNIVERSARY**

It was thirty years ago that Presbyterian Pastor Bob Cook became aware of the need for housing for men coming out of prison. He bought a rundown house on 6th Avenue for \$6000 and began fixing it up. He took in his first guest in April of 1980. Thirty years later Rev. Cook is still living at the house, although he frequently travels to El Salvador where he has served as a missionary. He says that the House has helped nearly 2000 men make the transition from prison to life in the real world. The House has certainly had its ups and downs. At times the city has threatened to shut it down due to building violations and coming up with the money to keep it going has often been difficult.

Over the years the ministry grew to include other programs and was known as "Criminal Justice Ministries, but in recent years has focused on the primary mission of providing housing and meals. For a number of years they published a newsletter called, "BARS and STRIPES" which included art work and articles by those on the inside, as well as, investigative pieces on the criminal justice system in Iowa. It was often a thorn in the side of Corrections officials. Former Director of Corrections Paul Grosheim once commented that he hated that paper so much that he wouldn't even allow his wife to use it for packing in boxes at the shop she ran. Bob Cook would like to get the paper going again.

The Prison Awareness Walks, which were the brain child of former Board Member Richard Nordin, were also a well known activity. For 13 years walkers collected pledges and walked various routes across Iowa, usually starting and ending at a prison. The Walk usually spanned at least a week and walkers stopped in churches in the evening and spoke to local

people about reforming the criminal justice system. We spoke about the need for quality mental health treatment, quality substance abuse treatment, education and vocational training ending the excessive use of lock-up, quality re-entry programs, keeping family connections by lowering the cost of inmate phone calls and increasing visiting hours, etc. These are the very same issues we are working on today. Some of us covered over a thousand miles of Iowa roads on those walks. The money from pledges kept HH running.

Probably the most well-known guest that HH has had was Bill Kelly who served 49 years and 2 months in the Iowa Prison System. He had a life sentence which was commuted to years by Governor Harold Hughes. Bill was paroled once, but just couldn't make it after so many years on the inside, so he cut his P.O. and went back to prison to serve out his sentence. The DOC contacted Bob Cook and asked him if Bill could live at Hansen House. Thus he became a permanent guest for 7 years. When his health deteriorated Bill Basinger became his legal guardian and make arrangements for him to go to a local nursing home and then to Broadlawns Hospital. Bill claimed to be an atheist, then an agnostic and finally was baptized by Bob. He told us that he had felt that God would never forgive him for what he had done, but then he came to realize that God would forgive him even though he could never forgive himself.

In 1992 CJM received a grant from the Presbyterian Self Development of People Committee to start a program to get families and friends of prisoners involved in prison reform. This resulted in the formation of the Iowa Chapter of CURE. CJM was also one of the founding members of the Justice Reform Consortium. From its humble beginnings many lives have been touched. If the walls at Hansen House could talk they would have many amazing stories to tell. Currently the House has up to 17 guests where guests can stay up to a year. They also have a second house where men pay rent, but still have some degree of supervision.

For more information contact the Executive Director Doug Anderson at: Hansen House of Hospitality, 1521 6th Ave. DM, IA 50314, phone: 515-282-0549.

## **FREEDOM HOUSES OFFER HOUSING AND SUPPORT FOR MEN AND WOMEN NEEDING A FRESH START**

Deb Theeler an ex-offender who did time at ICIW and Carroll Dysart, a business man who served as a volunteer with the Innerfaith Freedom Initiative have opened a number of house for men and women in the Des Moines area who are seeking a new start and need to live in a supportive environment. Carroll leases the houses and provides the furniture. There are two houses for women which Deb supervises and a number of houses for men. There is no live in staff, but Deb and Carroll keep a close check to make sure that curfew and other rules are followed for the safety of all residents. Residents pay from \$ 300 to \$400 per month for rent and buy their own food. They also pay a \$150 refundable sobriety fee. Carroll leads a required Bible study.

For more information contact Deb Theeler at:515-402-6909 or Carroll Dysart at 515-202 4005,

NOTE; PLEASE REMEMBER WHEN YOU NEED HELP WITH EMERGENCY HOUSING, FOOD, AND OTHER SERVICES; YOUR FIRST CALL SHOULD BE TO 211. They have people 24 hours a day who can advise you.

## **CHANGES IN MEMBERSHIP OF BOARDS**

Significant changes have been made in the makeup of the Iowa Board of Parole and the Board of Corrections. Several members of the Board of Parole accepted the offer of early retirement last Spring and Walter Reed accepted a position with the Department of Transportation. Governor Culver appointed three new members of to serve on the Board. They were Steve Young, Larry James, and Barbara Western. They completed orientation; however their appointments had not been confirmed by the 2011 Senate. Shortly after Governor Branstad took office he dismissed these new members and appointed 3 persons of his choice. They will have to be confirmed by a 2/3s vote of the Iowa Senate. He said that he didn't feel that the Parole Board had been moving quickly enough on paroles. During 2010, 4,606 people were paroled while 5774 were paroled in 2009. We feel it should be noted that the change in board members and the need for them to have a quality orientation no doubt had an effect on the number of parole interviews they could conduct.

The new board members are former Rep. Doris Kelley of Waterloo, W. Thomas Phillips of Waukee, a retired Pioneer employee, and Jim Felker of Hiawatha who formerly worked for the Department of Corrections. Nancy Boyd and Chairperson Elizabeth Robinson continue to serve.

Governor Branstad has also made changes in the appointments to the Board of Corrections. Art Neu, former Lt. Governor of Iowa, and long term board member had applied for reappointment as had Michael Sadler, however they are being replaced. Mr. Neu said that he had hoped to serve 4 more years and Mr. Sadler said he felt that he was just beginning to understand the way things work. Chairperson Robyn Mills was also not reappointed. Rev. Michael Coleman of Waterloo was reappointed. New members include Charles Larson, Sr. who served 1 term as U.S. Attorney for the Northern District, and served as Chairperson of the Iowa Parole Board, He also was Justice Attache to the U.S. Ambassador in Iraq. Also appointed to serve was John Chalstrom, Superintendent of Schools in Cherokee, IA, and business woman Nancy Turner of Corning, IA.

It is interesting to note that on the Governor's website where the members of Boards and Commissions are listed it says that Neu and Sadler were "not interested" in being reappointed. Both had applied to serve another 4 years.

## **COMMUNICATION NEWS**

### **ATTORNEY-INMATE PHONE CALLS**

The DOC has made some major changes in the way that attorneys and their inmate clients are able to communicate by phone. Attorneys will no longer be able to call a prison and ask to speak with their client. All phone calls must be initiated

by the incarcerated client. Incoming calls may be approved by the warden/superintendent, if there is a proven immediate court deadline. The attorney and client must coordinate the time for the inmate to call through a letter written to the attorney. An attorney is allowed to place money in the client's phone account. The attorney must check to be sure that the inmate has an open slot on their phone contact list. They should designate the money to be used only for calls between the attorney and inmate. The attorney must provide a specific number where they can be reached. All prepaid phone deposit forms must be sent to: IDOC Offender Telephone Accounts, Post Office Box 1417, Fort Madison, Iowa 52627. A proper form and instructions can be found on the IDOC website. You must send a money order and it must be made out to the IDOC Offender Telephone Account, not the inmate. The inmate's name and number should be on the M.O.. Even the smallest error will cause it to be returned to you. Other information regarding contact with attorneys can be found on the IDOC website by clicking on "Attorneys."

**INMATE PHONE CALL CHARGES:** IDOC signed a one year extension of their current phone contract. According to Fred Scaletta of the IDOC the department is losing money on every local call and about 50% of phone calls from inmates are now local because family and friends of prisoners often purchase cell phones based in the calling area of the prison. The charge for a local call is \$2.00 and Mr. Scaletta says they are losing money on every call. In Nebraska the charge for a local call is fifty cents. \$750,000 of the phone revenue is designated for prisoner education. Other items previously funded by phone revenues are now being absorbed in other areas of the DOC budget. For example the money for the "religious coordinator" comes from the budget of the Iowa Women's Correctional Facility.

**O-MAIL MESSAGES:** It is now possible for those on the outside to send O-Mail messages to all the Iowa prisons. Prisoners at Iowa Women's Correctional Facility and the North Central Iowa Correctional Facility can send messages to those on the outside. We understand that at some point the other prisons will be brought on line. To send a message, follow these instructions carefully:

1. Go to the Internet site: <http://corrlinks.com>.
2. Sign up for a new account, Fund the account with as little as \$5 using a MasterCard/VISA.
3. Add your inmate's number.
4. Create and send a message. The message will go through a security screen and then will be delivered to your loved one. Messages can be sent from ANY city and country for the same fee. It is our understanding that everyone is very pleased with this opportunity to communicate quickly and at a low cost. Keep in mind that the content, including communication between attorney and client is not confidential.

### **HANDBOOK FOR FAMILIES AND FRIENDS OF OFFENDERS**

A new handbook for families and friends of offenders which answers questions about how the prison system works is available on the Iowa DOC website. Go to the home page and

click of Families and Friends of Offenders and it will take you to the site for the Handbook in English and Spanish. The department hopes to add information such as "ride share" to this site in the near future.

## **REFORM OF THE MENTAL HEALTH SYSTEM**

It is no secret that Iowa's prisons have become our state institutions for the mentally ill. We know the statistics regarding the number of prisoners in our system who have mental health problems: 30 to 35% of Iowa inmates have mental illnesses. We also know that this is wrong and we need a mental health system that addresses the needs of our mentally ill citizens before they get to the point where become involved with the criminal justice system. Director John Baldwin has stated that, "the department is absolutely committed to diligently partnering with other mental health providers and stressed a statewide solution is needed in treating mentally ill individuals, not just a Corrections solution." CURE certainly agrees that we need to work together. Much has been said about the current mental health care system in Iowa with each county having its own system. The possibility of a state wide or regional system has been suggested, but would that make it easier to cut services during lean times than the current system? The Taxpayer First Act would provide necessary service for adults in need of mental health, mental retardation or developmental disabilities until important to the system can be developed. This is a stop gap method at best. We need to come up with some well thought out, long term solutions.

In an effort to better prepare DOC staff to understand mentally ill prisoners the DOC staff participated in mental health training at the Iowa Medical and Classification Center which was sponsored by the National Institute for Corrections and has partnered with the National Alliance on Mental Illness to train staff throughout the system during 2011. At January meeting of the Board of Corrections some elements of the training were shared with Board members and visitors. The program was explained and a consumer of mental health services and a family member of a mental health service consumer shared their testimonies. We certainly appreciate their willingness to share their stories as a part of this training, but it should be noted that neither had experienced any involvement with the criminal justice system. It seems to us that in order to be effective mentally ill persons who had actually been in the system should be a part of training, as well as a parent or other family member who has had a loved one in the system. One of the most common problems I encounter as an advocate is that of a prisoner spending long and repeated periods of time in ad seg and disciplinary detention due behavior related to his/her mental illness. In some cases this same person is then discharge back into society directly from months of segregation. This is something that could be addressed by during staff training and education.

We are encouraged by the fact that the legislature, those who deliver services, those who are consumers, and concerned citizens are now working together to try to find a way to address the problem with the lack of services for the mentally ill in our state and being sure that they receive the proper treatment in the community. A bill coming out of the Public Safety Advisory Board that would require that mental health

and substance abuse histories should be a part of the pre-sentence investigation report and the standards for release on probation in a criminal proceeding. This would be a good place to start as far as developing appropriate planning for an offender. The DOC is opposing this bill on the grounds that it would be too expensive. It seems to us that it would be well worth the price to have this valuable information.

## **News of Death of Faithful Iowa CURE Member**

We want to extend our sympathy to the family of Chip Goehring, longtime member of Iowa CURE and board member, who passed away recently. Chip was an Iowa CURE member for many years and was elected to the board last year.

## **from the Prison Law Blog:**

### **Prison Labor and the Thirteenth Amendment**

An issue raised by the Georgia prison strike is whether and how much prisoners should be paid for their labor. Here's the first bullet point from the strikers' list of demands:

- A LIVING WAGE FOR WORK: In violation of the 13th Amendment to the Constitution prohibiting slavery and involuntary servitude, the DOC demands prisoners work for free.

It does not, in fact, violate the Thirteenth Amendment to require prisoners to work for free. (That, of course, is an entirely separate issue from whether prisoners should be paid as a policy matter, or whether particular prisoners may have constitutionally cognizable challenges to particular work assignments — I'm speaking here at a broad level of generality.)

Here is the text of the Thirteenth Amendment, passed and ratified in 1865, with the relevant language bolded:

"Neither slavery nor involuntary servitude, **except as a punishment for crime whereof the party shall have been duly convicted**, shall exist within the United States, or any place subject to their jurisdiction."

This is why states that do pay prisoners can legally pay them well under the minimum wage. From the Prison Policy Initiative, [here's a breakdown](#) of prison hourly wages, ranging from \$0 in Georgia and Texas, to 13 cents in Nevada prison camps, to \$1.15 in some federal prison industries jobs. Prisoners also face basically insurmountable barriers to forming unions. As summarized by the [Jailhouse Lawyers Handbook](#):

Prison officials are permitted to ban petitions, like those asking for improvements in prison conditions, as long as prisoners have other ways to voice their complaints. *Duamutef v. O'Keefe*, 98 F.3d 22 (2d Cir. 1996). Officials can ban a prisoner from forming an association or union of inmates, because it is reasonable to conclude that such organizing activity would involve threats to prison security. *Brooks v. Wainwright*, 439 F. Supp. 1335 (M.D. Fl. 1977). In one very important case, the Supreme Court upheld the prison's ban on union meetings, solicitation of other prisoners to join the union, and bulk mailings from the union to prisoners, as long as there were other ways for prisoners to communicate complaints to prison officials and for the union to communicate with prisoners. *Jones v. North Carolina Prisoners' Labor Union, Inc.*, 433 U.S. 119 (1977).

Given all of these legal barriers, not to mention the practical barriers of prison life, it's all the more remarkable that Georgia prisoners were able to organize and carry out a collective protest of any kind, much less one that lasted almost a week (well, depending on who you ask, the prisoners or the guards) and that attracted national media attention. Hopefully, their demands will draw attention to prison conditions not just in Georgia but around the country.

### **The Thirteenth Amendment: A Brief Overview**

For a brief overview of the Thirteenth Amendment's history, language, and meaning, I recommend "A New Birth of Freedom," ch. 10 of [America's Constitution: A Biography](#) (Random House, 2005), by Yale Law professor Akhil Reed Amar. The language of the amendment was mostly borrowed from the Northwest Ordinance of 1787 and various subsequent statutes regulating slavery in newly acquired territories, but the substance was totally new:

While the Thirteenth Amendment clearly condemned traditional forms of un-free labor — chattel slavery itself, debt peonage, and so on — the antebellum experience had also dramatized a variety of other, less obviously economic forms of degradation, dehumanization, and un-freedom. While slave men had been worked against their will in the fields, paradigmatic slavery for women and children had taken other forms above and beyond field work — sexual exploitation and child abuse, for example. By banning all forms of "slavery [and] involuntary servitude," the Thirteenth Amendment cast a wide net not merely over the nation's economy but also over its social structure and its domestic institutions.

Despite its seemingly traditional language, the Thirteenth Amendment thus marked a radical break with the antebellum federal Constitution. That prewar document had imposed few limits on what a state could do to its own inhabitants, whereas the Thirteenth pulverized bedrock legal principles and practices in more than one-third of the states and imposed new affirmative federal obligations on every state. The old Constitution had insulated property-holders from uncompensated takings, but the new one ratified and extended the largest redistribution of property in American history. Slaves were worth more than any other capital asset in the nation except land. In 1860, human chattel represented about three times as much wealth as the entire nation's manufacturing and railroad stock, yet the Thirteenth made no provision for compensation, even of loyal masters in true-blue states. ... A structurally proslavery Constitution became, in a flash, stunningly antislavery.

As it has been subsequently interpreted by the courts, the Thirteenth Amendment doesn't just ban slavery but also various practices that courts have deemed too uncomfortably close to slavery. For instance, the Thirteenth Amendment protects your right to walk away from a labor contract before your work is complete: you may be compelled to pay damages, but you can't be compelled by a court to actually finish the work. In other words, you can't voluntarily contract your future self into forced labor.

Nevertheless, many Southern states continued to criminalize breach of contract well in the twentieth century, creating a de facto system of involuntary servitude that is well covered in Leon Litwack's [Been in the Storm So Long](#) (1980).

The **only** exception, then — the **only** form of involuntary servitude explicitly allowed by the Thirteenth Amendment — is involuntary servitude as punishment for "crimes." Of course,

states have few restrictions on how they define "crimes." During Reconstruction and well into the 1940s many Southern states took advantage of this exception to essentially reinstitute slavery in other forms, as covered by Wall Street Journal reporter Douglas Blackmon in his book [Slavery by Another Name](#).

In light of its plain text, the Thirteenth Amendment has generally been interpreted to bar legal challenges to unpaid or minimally paid prison labor. But a [2009 student note](#) in the William & Mary Bill of Rights Journal argued that there is a constitutional case to be made against involuntary labor in private prisons, since private prison companies are motivated by profits rather than rehabilitation (which was, way back in the nineteenth century, the original justification for prison labor).

### **BRANSTAD TAKES AWAY VOTING RIGHTS**

Governor Branstad had scarcely completed taking the oath of office when he signed Executive Order 70 rescinding the Executive Order 42 so proudly signed by Governor Vilsack on July 4, 2005. Executive Order 42 gave an estimated 100,000 ex-felons their voting rights.. I remember how we all crowded around the Governor at the press conference. Any day that a group of previously disenfranchised people have their voting rights restored is a proud day. A day when those rights are revoked is a sad one.

Branstad believes that ex-felons shouldn't vote until they have paid all there restitution and court costs. In this day and age that is close to impossible, especially for minorities living in poverty and finding it next to impossible to find a job. Each year fines, penalties, court costs, supervision fees, etc. have been increased. Far from motivating ex-felons to try to pay up because they can vote and therefore think of themselves as full-fledged citizens, having the vote taken away will cause them to feel there is no point in trying to pay this massive debt.

Many of us who are not ex-felons owe the state money in fines, court costs, surcharges and other fees, but we are not denied the right to vote. We don't have to prove that our slate in clear of debt when we go to the ballot box.

Some suspect that the real reason for rescinding the right to vote for ex-felons is that Branstad and his party believe that they constitute a solid block of liberal Democrats. Many of us who have a long history of working with prisoners, doubt that assumption. They are first of all individuals and have their own opinions, but I would not be surprised to find that many are social conservatives.

We think it is certainly a step backwards for Iowa when we take away the right to vote from a whole group of our citizens who are trying to make a positive contribution to their society.

### **SUMMER CAMP FOR CHILDREN OF THE INCARCERATED**

The United Methodist and the Episcopal Church are sponsoring a summer camp for children who have an incarcerated parent. It will be held at the Pictured Rocks UMC Camp in Monticello, Iowa. There will be space for 40 children. If you are interested in learning more about the camp or enrolling a child please contact: Rev. James Pemble at

[mjp150@msn.com](mailto:mjp150@msn.com) or Misty Hansen at [misty.hansen@mchsi.com](mailto:misty.hansen@mchsi.com). There will be a \$15 enrollment fee. All other expenses will be covered.

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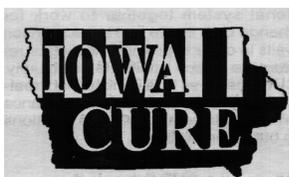
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