

Colorado Justice Report

NEWSLETTER OF THE COLORADO CRIMINAL JUSTICE REFORM COALITION

Spring 2013

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Founded in 1999, CCJRC is a network of organizations, faith communities, and individuals working to reverse the trend of mass incarceration in Colorado

Moving Forward With Heavy Hearts

This year, CCJRC has lost two dear friends and leaders in the field of criminal justice reform, Elaine Smith and Tom Clements. These two seemingly different people shared much in common. Elaine and Tom had an abiding faith in God, with an unwavering belief in redemption. Both believed in the inherent value of all people and had a spirit filled with joy, laughter, and love.

We will miss them both deeply and will forever wonder about all the work we would have done together. However, CCJRC counts among our blessings the opportunities we did have.

Rev. Dr. Elaine Smith passed away in February and one of her legacies will be her tireless commitment to helping people released from prison and jail. When Elaine and her long-time friend Eddie Mae Woolfolk started Charities House Ministries in 1995 very few people had ever heard of the term “re-entry” let alone invested in the concept.

She was also a committed activist who embraced and embodied the belief that there needs to be more winners and fewer losers in the distribution of power, resources, and opportunities in Denver and Colorado, particularly for poor people and people of color. She helped organize the Denver chapter of “All of Us or None”, a national movement of formerly incarcerated people.



In 2004, Elaine helped organize and facilitate a strategic planning meeting on re-entry that involved community and government service providers, advocates, and Department of Corrections (DOC) personnel. Her goal was simple – that we all could (and needed to) work together better in order to truly build a bridge between prisons and the community. Elaine asked all of us there-- “what can you do?” In answer to that challenge CCJRC decided to develop and distribute a re-entry guide, which ultimately became, “Getting On, After Getting Out”- now in its third edition. That project was inspired not just by that meeting but also by her challenge. “What can you do” is the clarion call to all of us. Elaine’s inspiration, leadership and infectious spirit will be what CCJRC remembers best and misses the most. Elaine made this world a better place and she made us better people for having known her.

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Don't let tragedy derail sound criminal justice reform

Recently, the Denver Post published an editorial that questioned recent criminal justice reforms passed by the Colorado Legislature. This guest opinion was written in response and published in the Denver Post on April 6, 2013

By Christie Donner and Mike Krause

The horrific murder of Colorado’s corrections chief, Tom Clements, has raised questions about recent criminal justice reform efforts, and specifically Senate Bill 11-176. However, the great, untold legislative success story of the last five years is the steady, measured and bipartisan progression of criminal justice reforms aimed at having effective and cost-efficient public safety policies.

Let’s not allow a tragedy to undo years of careful work towards sound policy reforms.

For decades, the Colorado Department of Corrections (DOC) housed a far greater percentage of inmates in “administrative segregation,” or solitary confinement, than the national average. A large and growing percentage of inmates in administrative segregation have a serious mental illness, which raised the question of whether these inmates needed mental health treatment or medication in response to disruptive behavior, not long-term solitary confinement.

Finally, a DOC report indicated that 47% of inmates in administrative segregation were released straight to the community onto parole without any “step-down” to help them adjust to society after release. Legislators introduced SB 11-176 to address these issues.

Director Clements came onto the job about the same time SB 11-176 was introduced. The sponsors met with him and his staff frequently and he helped create the bill that ultimately became law. As amended, the bill required the DOC to evaluate its use of administrative segregation and submit a report to the Legislature the following year. It also allowed inmates in administrative segregation to be eligible for earned time.

Effective prison management and changing inmate behavior requires both consequences for rules violations and incentives for positive behavior and progress. There were no mandates in SB 11-176, and the DOC has the sole power to determine whether an individual inmate will be awarded earned time or not.

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As a nationally respected corrections professional with over 30 years of experience, Director Clements was very well aware of the complexity of running both safe prisons and preparing people for release.

Tom Clements was a recent and perhaps unexpected friend. After 30 years with the Missouri DOC, Tom came to Colorado with his family in 2011 to become the Executive Director of the Colorado DOC. His wife, Lisa, was hired to be the head of the Colorado Division of Behavioral Health. Around the CCJRC office, we frequently called them the Missouri Power Couple because they were rocking Colorado by embracing sensible prison and sentencing reform and expanding access to mental health and substance abuse treatment services. Tom wanted the DOC to be more open and engaged in the community. In October 2011, CCJRC decided to host a dinner so that community re-entry service providers could meet members of the Parole Board and Tom. Not only did Tom come (with his wife Lisa), he had the entire DOC executive team there.



Tom was sincerely concerned about people in prison and their loved ones. He revealed that this came from his

childhood experiences of visiting his Uncle in prison in Missouri. He was a national expert in his field but also a constant student. He always wanted to examine the data around problems and issues. CCJRC and others could bring ideas, criticisms, or suggestions to him and he would listen-then look at the data. Tom was extremely proud of the staff at DOC but he could objectively examine areas that needed change. Unfortunately, we'll never know the full extent of his vision for DOC.

We have received numerous letters from people in prison sharing their fond memories or experiences with Tom and condolences to his family. If any of our readers would like to do the same, just send us a letter or email pam@ccjrc.org and we will figure out a way to share them with his wife Lisa and their children. People can send their condolences to Elaine's family by writing to Charity's House Ministries, 3022 Welston St. Denver, CO. 80205

The Colorado Criminal Justice Reform Coalition sends our prayers and thoughts to all those affected by the loss of these two remarkable people. We will remember all that they taught us and will continue to be inspired by them as all the good and necessary work moves forward. CCJRC will continue to strive to work with the greatest level of integrity and intensity as we are guided by our deep belief in redemption and justice. This is our tribute to their memories and legacies.

Tom Clements supported SB11-176 and it received significant bipartisan support in the Legislature.

Policymakers need to continue to reevaluate current prison and sentencing policies.

Colorado adopted a get-tough sentencing approach in the 1980s. The prison population and budget exploded as a result. But incarcerating more and more people is not the only, or always most effective, approach or use of public funds to prevent crime, promote public safety, and re-integrate offenders.

Achieving these goals requires much more complicated and sophisticated strategies both within the criminal justice system and beyond. The recent legislative efforts to reform criminal justice practices and sentencing laws have been based on data and research on how best to promote public safety and what has proven to work to prevent crime and reduce recidivism.

Clearly, there are people for whom a lengthy prison sentence is appropriate and deserved, both to promote public safety and as a matter of basic justice. There is also a clear recognition that some failed policies that have been major drivers of the growth in the prison population, like the war on drugs, need to be substantially redesigned. We also need to remember that almost every person in prison will eventually be released back into society.

The desire for effective criminal justice policy has driven bipartisan support for reforms both in Colorado and across the country, including the conservative Right on Crime project. To be sure, budget considerations have brought the need for criminal justice reform to the forefront and provided motivation to look at an issue many felt was too controversial to touch.

But in the eight years our two organizations have been working together on criminal justice issues, we have never seen saving money for its own sake as the driving force behind any of these reforms. Cost savings to the taxpayers is rather a beneficial byproduct of sound policy changes.

The murder of Tom Clements is both a horrible crime and a great tragedy. But just as we shouldn't let tragedies panic us to rush through bad laws and policies, neither should we allow this great tragedy to derail the ongoing efforts towards a more effective and just system.

Christie Donner is executive director of the Colorado Criminal Justice Reform Coalition (CCJRC). Mike Krause is director of the Justice Policy Initiative at the Independence Institute, a free market think tank in Denver

CCJRC 2013 Legislative Update

The 2013 legislative session started on January 9, and it will end on May 8, 2013. It's going to be a very big agenda in criminal justice reform and will include legislation on drug sentencing reform, theft sentencing reform, addressing collateral consequences, expanding diversion programs, and bond reform, just to name a few.

In order to keep you informed, CCJRC sends out a legislative update every Friday and will issue Action Alerts when your involvement is particularly critical. Some bills have already been signed into law, such as voting for juveniles who were adjudicated and are 18 and over and in a secured setting. Sadly, some legislation has already died, such as the repeal of the death penalty.

The list of legislation that we have included in this publication is not exhaustive due to space limitations. We have included our priority bills and a few that you might find interesting. You can find the complete list of pending bills, bills that have been signed into law and bills that have died at www.ccjrc.org under Current Legislation. That list is updated weekly. We will include a more detailed synopsis in the next edition of the newsletter. If you are not on our email list, please email pam@ccjrc.org

Pending Legislation

SB 13-007 Concerning the Repeal Date of the Colorado Commission on Criminal & Juvenile Justice

Sponsors: Senator Morse (D) and Representative Waller (R)

CCJRC position: support

Description: The Colorado Commission on Criminal & Juvenile Justice (CCJJ) has a repeal date of July 1, 2013. This bill was amended to set a new repeal date and continue the CCJJ.

SB 13-014 Concerning the Use of Opiate Antagonists to Treat Persons Who Suffer Opiate-Related Drug Overdose Events

Sponsors: Senator Aguilar (D) and Rep. Pettersen (D)

CCJRC position: support

Description: This bill would provide immunity from criminal prosecution and immunity from civil liability if a person, acting in good faith, administers an opiate antagonist to another person whom the person believes to be suffering an opiate-related drug overdose.

SB 13-123 Concerning Provisions That Improve The Reintegration Opportunities for Persons Involved in the Criminal Justice System

Sponsors: Senator Steadman (D) and Representative Levy (D)

CCJRC position: support-priority

Description: Among other things, the bill would allow petty offenses and municipal violations to be eligible for sealing through a court process.

SB13-250 Concerning Changes to Sentencing for Persons Convicted of Drug Crimes

Sponsors: Sen. Steadman (D) and Sen. S. King (R) and Rep. Levy (D)

CCJRC position: priority-support

Description: This bill is based on numerous recommendations from the Commission on Criminal & Juvenile Justice that would rewrite the Controlled Substances Act. Major provisions include: creating a stand-alone sentencing scheme for drug offenses; consolidating all drug possession of scheduled substances into one felony level but allowing that felony to be reduced to a misdemeanor upon successful completion of probation or community corrections sentence, if other criteria is met; requiring the court to exhaust all appropriate and available sentencing options for convictions of a level 4 drug felony prior to sentence to incarceration; allows people convicted of a misdemeanor to be supervised on intensive supervised probation if assessed to be higher risk; creating different felony crime levels to distinguish between low, medium, and high-level dealers based on drug quantity; expanding access to treatment for people serving a sentence for a drug offense; and making numerous conforming amendments.

SB 13-208 Concerning Limitations on Drug Paraphernalia Laws

Sponsors: Sen. Steadman (D), Sen. Aguilar (D), Sen. Guzman (D), Sen. Hudak (D), Sen. Nicholson (D), Sen. Ulibarri (D) and Rep May (D)

CCJRC Position: support

Description: Current criminal law exempts from prosecution people who possess paraphernalia if they are an employee or volunteer of a syringe exchange program approved by the department of public health and environment. The bill extends this exemption to persons who are participants in an approved program.

HB 13-1114 Concerning Penalties for Persons Who Drive While Under the Influence of Alcohol or Drugs

Sponsors: Representatives Waller (R) and Fields (D)

CCJRC position: monitor

Description: In a DUI prosecution, if the driver's blood contains 5 nanograms or more of delta THC per milliliter in blood (based on a blood test), such fact gives rise to a permissible inference that the driver was under the influence.

HB13-1261 Concerning the Use of the Property Where the Fort Lyon Correctional Facility Was Located

Sponsors: Representative Garcia (D) and Rep. Dore (R)

CCJRC position: monitor

Description: The bill designates a portion of the Fort Lyon property, which was the site of a former state correctional facility, as a transitional residential community for the homeless to provide substance abuse supportive services, medical care, job training, and skill development for the residents.

HB13-1156 Concerning Creation of an Adult Diversion Program

Sponsors: Rep Levy (D) and Senator Steadman (D)

CCJRC position: priority support

Description: Creates a pre-filing diversion programs for adults statewide and creates a state grant program that district attorneys can apply for funding to create or expand an adult pre-filing diversion program. The district attorney is required to develop eligibility guidelines and may enter into a diversion agreement with a defendant for up to two years without filing a criminal case against the defendant.

HB13-1160 Concerning Criminal Theft

Sponsors: Rep Pabon (D) and Senator King (R)

CCJRC position: priority support

Description: This bill repeals theft of rental property and theft by receiving as separate statutes and incorporates these crimes into the theft statute. It also changes the amount for various offense levels.

HB13-1210 Concerning Appointment of Legal Counsel During Plea Negotiations for Indigent Adult Defendants

Sponsors: Rep. Kagan (D) and Senator Steadman (D)

CCJRC position: support

Description: This bill will make Colorado law consistent with recent U.S. Supreme Court decisions regarding the right to legal counsel during critical stages, including plea negotiations, this bill repeals the statute that requires an indigent person charged with a misdemeanor, petty offense, or motor vehicle or traffic offense to meet with the prosecuting attorney before legal counsel is appointed.

HB13-1214 Concerning the Classification of Certain Drunk Driving Offenses as Felonies

Sponsors: Rep. Waller (R)

CCJRC position: Monitor

Description: Under current law, a conviction for DUI, DUI per se, or DWAI is considered a misdemeanor offense. The bill states that such an offense is a class 5 felony if: the violation occurred not more than 7 years after the first of two prior convictions or if the defendant has 3 prior DUI or DWAI convictions.

HB13-1230 Concerning Compensation For Persons Who Are Exonerated of their Crimes After a Period of Incarceration

Sponsors: Rep. Williams (D), Pabon (D), Buckner (D), Court (D), Hullinghorst (D), M elton (D), Pettersen (D), Salazar (D); and Senator Guzman (D)

CCJRC position: Support

Description: With certain limitations, the state shall compensate a person, or the immediate family members of a person, who has been: wrongly convicted of a felony, or wrongly adjudicated a juvenile delinquent for the commission of an offense that would be a felony if committed by a person 18 years of age or older; incarcerated; and exonerated and found to be actually innocent.

HB13-1236 Best Practices in Bond Setting

Sponsors: Senator Ulibarri (D), and Rep. Levy (D)

CCJRC position: support

Description: The bill repeals and reenacts the provisions of the criminal procedure code related to bail bonds. The new provision places a greater emphasis on evidence-based and individualized decision-making during the bond-setting process and discourages use of monetary conditions for bond. This bill is based on a recommendation by the Colorado Commission on Criminal & Juvenile Justice.

HB 13-1251 Concerning Collection of a DNA Sample from Offenders Convicted of a Misdemeanor

Sponsors: Representatives Pabon (D) and Foote (D) and Senator Morse (D)

CCJRC position: oppose

Description: Under current law, only people convicted of a misdemeanor involving unlawful sexual conduct must provide a DNA sample for inclusion in the DNA database at the Colorado Bureau of Investigation. The bill would require collection of a DNA sample from all persons convicted of a class 1, 2, or 3 misdemeanor.

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Upcoming Event: *Not Exactly*

Not Exactly, RedLine's signature exhibition will be held from June 1-July 28, 2013, to engage the private, public and nonprofit sectors in a thoughtful and artistic dialogue into what it means to be homeless. Reflect on public performances, artwork, storytelling, and more. Join in a critical reflection on how someone may or may not exactly be homeless - What are contributing factors to the loss of a home? How does a lack of housing affect social roles in a community? Is a lack of shelter the definition of homelessness?

CCJRC will be presenting a two-hour panel discussion by housing, employment, criminal justice experts, and ex-offenders on the collateral consequences suffered by the formerly incarcerated and ways for empowerment and solutions. Check www.redlineart.org for the schedule of events.

RedLine, is a 501(c)(3) public charity located in Denver's Historic Five Points neighborhood. Redline combines an artist residency program with project-based community engagement in art. It is located at 2350 Arapahoe Street, Denver, CO 80205.

YES!! I want to support CCJRC and help to reverse the trend of mass incarceration in Colorado. Enclosed is my tax-deductible contribution. Your support makes all the difference!

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CITY: _____ State _____ Zip _____

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Individual \$35 Low Income/Senior/Student \$12

Household \$50 Prisoner \$3 (cash or postage stamps)

Sustainer \$100 or more

Freedom Fighter \$_____ charge me monthly/quarterly

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Please return form to: CCJRC 1212 Mariposa St. #6 Denver, CO 80204

CCJRC 2013 Voices For Justice Fundraiser

In 2012, The Colorado Criminal Justice Reform Coalition (CCJRC) presented its inaugural award, the Rupert Tate Game-Changer Award, to Dorothy Rupert and Penfield Tate, the two former legislators for whom it is named. Their vision for criminal justice reform served as the impetus for the creation of CCJRC. This award is designed to honor the most progressive, criminal justice reform change agents in Colorado. This year, CCJRC is proud to announce Mesa County's "One Less" project as its 2013 Rupert Tate Game-Changer Award recipient.

One Less is a pilot program (borne from judicial collaboration between counsel, law enforcement, and the courts) aimed at implementing smarter, evidence-based sentencing.

One Less operates under the understanding that standard punitive sanctions only reduce recidivism by around 10%. This is, in large part, due to the system's misplaced focus on probation, endless court dates, and treatment programs for low-risk offenders while ignoring the high-risk ones until they are warehoused in the Department of Corrections. Whereas, programs that employ cognitive-behavioral and functional family therapies, interpersonal skills training, mentoring, and other multi-system methods for offenders across the board, actually reduce recidivism by as much as 60%.

Since the inception of One Less, Mesa County's jail population, recidivism, and incarceration costs have decreased dramatically.

CCJRC thanks Bert Nieslanik, Deputy Director of the Alternate Defense Counsel; David A. Bottger, Mesa County Judge; Stan Hilkey, Mesa County Sheriff; and the entire One Less project for their truly inspiring work. It is CCJRC's privilege to recognize the enduring impact of this game-changing initiative and amazing group of individuals.

Please join CCJRC on September 26, 2013 for its annual fundraising event to honor Mesa County's One Less program.

For more information, please visit ccjrc.org.

CCJRC is a member of Community Shares
Ask your employer about workplace giving!