

2010 Festival Season Has Arrived



23rd Annual Cinco de Mayo Festival
 May 8th & 9th, 2010
 10:00 a.m. to 8:00 p.m. both days
 Denver Civic Center Park

2010 CHUN Capitol Hill People's Fair
 June 5 and 6, 2010
 Saturday 10:00 a.m. to 7:00 p.m.
 Sunday 10:00 a.m. to 7:00 p.m.
 Denver Civic Center Park

Denver Pridefest
 June 19th and 20th, 2010
 Saturday 11:00 a.m. to 7:00 p.m.
 Sunday 10:00 a.m. to 6:00 p.m.
 Denver Civic Center Park

Denver Black Arts Festival
 The 24th Annual Colorado Black Arts Festival
 July 9th through Sunday July 11th
 Denver City Park

CCJRC will be hosting a table with our coalition partner the Colorado Progressive Coalition at each of these events for 2010. Please attend to support the events and take a moment to stop by the table to say hi and find out more about what CCJRC is up to. Admission is free to all events.

For more information on meetings and events, we have added a new page to our website. (<http://www.ccjrc.org/events.shtml>) On that page you will find a link to both the Colorado Commission on Juvenile and Criminal Justice and Denver's Crime Prevention and Control Commission calendar of meetings.



CCJRC 2010 Miniature Golf Tournament

CCJRC's annual fundraiser and auction will be held on Thursday, September 16th, 2010.

We are beginning our acquisition of auction items.

As you can imagine, the higher the quality of our inventory, the better our chances of exceeding our \$20,000 goal.

Items such as gift certificates to Denver area restaurants and retail stores, sporting events or sports memorabilia, cabaret/disco rentals, hotels or services; anything from dentists, salons, lawyers, lawn care and/or "stuff" is appreciated.

The "stuff" category includes new or gently used jewelry, cameras, the "so fancy I don't know how it works" phone, laptops, iPods, etc. We deeply appreciate your donation to our 2010 event.

Contact: Mardy Wilson 303.455.1811
 mardy.80211@yahoo.com



"after thirteen years in prison, without any outside help, I believe this book will help me to succeed."

GO Guide Under Construction!

We are in the process of revising and updating *Getting On After Getting Out*. CCJRC appreciates all of you who took the time to send us a feedback form from the back of the GO guide. It's not too late to let us know your thoughts. If you did not use the feedback form and have any suggestions or information that you think would be helpful for the revised edition, please send CCJRC a note.

We hope to include more information about community organizations that help people when they leave prison. In the first edition, most of this information was for the Denver metro area. In the revised edition, we plan to include separate sections for several other Colorado cities, such as Pueblo, Grand Junction, and Colorado Springs. If you know of any organization in the state that helps people with the services they need upon release from prison, please let us know.

Because it takes so much work to revise the guide, we may not be able to personally answer your letters. Please know that we appreciate the effort and the cost of mailing a letter to us and thank you in advance. We will try to include as much of your information as possible.

We're excited at CCJRC that we have already received several grants that will help pay for the printing and free distribution of the revised GO guide to thousands of people in prison and on parole. So far, CCJRC has received grants from the Rose Community Foundation, the Adolph Coors Foundation, the Daniels Fund, and the Roots & Branches Foundation. In addition, late last year CCJRC received a \$10,000 grant from a donor who specified that the money be spent on the guide. We plan to have the second edition completed by early 2010.

COLORADO JUSTICE REPORT

Spring 2010

QUARTERLY NEWSLETTER OF THE COLORADO CRIMINAL JUSTICE REFORM COALITION

1212 Mariposa St., #6, Denver, CO 80204
 303-825-0122 phone
 www.CCJRC.org info@ccjrc.org

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



Rothgery and its Effect on the Colorado Judicial System

The Sixth Amendment to the United States Constitution provides that "in all criminal prosecutions, the accused shall enjoy the right... to have the assistance of counsel for his defense." Over the past century that right has been expanded and defined. Originally, the right simply ensured that a defendant charged with a federal crime would be entitled to appear through counsel instead of being forced to defend himself. Beginning in the early 1930s, the Supreme Court began to expand that notion and over the next three decades eventually required, along with state supreme courts, that the government provide lawyers to most criminal defendants who could not afford an attorney. Annually, more criminal laws and procedures are added to the books, and the law has become increasingly complex so that defendants need counsel more than ever.

The United States Supreme Court's decision in *Gideon v. Wainwright*, 372 U.S. 335 (1963) ensured representation of counsel to indigent persons accused of crime in all cases. In *Gideon* (and more recently in *Alabama v. Shelton*, 535 U.S. 654 (2002)) the Supreme Court ruled that in any state or federal prosecution where incarceration may be ultimately imposed, an indigent defendant must receive counsel. In 1963, the Colorado General Assembly passed the Colorado Public Defender Act in response to *Gideon*. The Act authorized Colorado counties to either establish a public defender's office or remain under the previous ad hoc system of appointing counsel as needed for indigent citizens accused of criminal offenses. In 1970, via the Administrative Re-Authorization Act,

Continued on page 2

2010 Legislative Update

The 2010 legislative session is proving to be the most important session CCJRC has ever been involved in. We are working on a number of bills on sentencing and parole reform that also include (finally) an expansion of funding for substance abuse and mental health treatment for people involved in the criminal justice system. CCJRC also developed a number of bills to address employment barriers for people with criminal records and successfully opposed or amended several bills that would have created new employment disqualifications for people with criminal convictions. We are working on legislation that will clarify voting eligibility for diversion clients in community corrections (both residential and nonresidential) and allow parolees to be eligible to vote. Our biggest challenge is trying to prevent the legislature from approving \$9.3 million to open one tower at the Colorado State Penitentiary, which is discussed in much more depth in another article. So, essentially, every major issue that CCJRC has focused on over the last 11 years is on the table this year. It's exciting and intense and we so appreciate the support and involvement from all of you.



The following is a summary of the legislation we're involved in and its status in the legislative process. If you'd like more information on how to track a bill during the legislative session or how to find out who your legislators are, go to our web site at www.ccjrc.org and click on the "legislative info" tab. "HB" refers to House Bill and indicates that this bill was introduced first in the House of Representatives. "SB" refers to Senate bill and indicates that this bill was introduced first in the Senate. There are a total of 35 members of the Senate and a total of 65 members of the House of Representatives. In order for a bill to pass, it must receive a simple majority of either 18 votes in the Senate or 23 votes in the House. Any bill developed from recommendations of the Commission on Criminal & Juvenile Justice is indicated as a "CCJ recommendation."

Bills that have passed both chambers and await the governor's signature
HB 1023: Concerning Clarifying Civil Liability Regarding Negligent Hiring Practices for an Employer That Hires a Person with a Criminal Record
 Sponsors: Representatives Mark Walker (R) and Senator Evie Hudak (D); co-sponsors include Representatives Gagliardi (D), Kagan (D), Kefauver (D), Summers (R) and Senators Boyd (D), Sandoval (D), Schefel (R), and White (R)

CCJRC Position: SUPPORT (priority)

Status: HB 1023 passed unanimously out of the House of Representatives and the Senate and was sent to the governor for action on March 18, 2010.

Description: CCJRC develop this bill which will limit the admissibility of evidence of an employee's criminal history in a civil action against an employer where: (1) the criminal history did not have a direct relationship to the underlying cause of action in the civil case, (2) the criminal record was sealed prior to the acts underlying the cause of action, (3) the criminal history consists of an arrest that did not lead to a criminal conviction, (4) the conviction received a pardon, or (5) the defendant suc-

Continued on page 2

YES! I want to join CCJRC and help stop perpetual prison expansion in Colorado. Enclosed is my **tax-deductible** annual membership or additional contribution:

Annual membership dues:

Individual: \$35 Low income/student/senior: \$12
 Household: \$50 Prisoner: \$3 (or equivalent in postage stamps)
 Sustainer: \$100+

My check is enclosed (made payable to CCJRC)

Please charge my credit card: Discover American Express
 Visa Mastercard Monthly Quarterly

Name _____ Signature _____

Home Street Address _____

City _____ State _____ ZIP _____ Phone _____

Email _____ FAX _____

Credit Card # _____ expires _____

I WANT TO BE A CCJRC FREEDOM FIGHTER!

Please charge my credit card monthly for \$ _____

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



Colorado Criminal Justice Reform Coalition
 1212 Mariposa St., #6
 Denver, CO 80204

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Rothgery continued from page 1

the State of Colorado provided funding for the establishment of the Colorado State Public Defender's Office as a separate and independent agency.

In 1993, the Colorado Legislature amended Colorado Revised Statutes (C.R.S.) 16-7-301 and added subsection 4 that requires indigent defendants charged with misdemeanors, petty offenses and traffic cases to meet with the prosecuting attorney before he or she can apply for a public defender. This section of the law also states that if the prosecution is not seeking incarceration and the case involves a charge for a class 2 or class 3 misdemeanor, petty offense, or traffic offense, then an indigent defendant isn't eligible for a public defender at all, even if the case goes to trial. The purpose of this statute is supposedly for the prosecutor and defendant to explore the possibility of a plea deal. At this meeting, a defendant can refuse to talk to the prosecutor. However, that's not what happens most of the time.

A defendant may make statements or admissions to a prosecutor that could be used against him if he later elects to go to trial. A defendant may enter a guilty plea in order to get out of jail without understanding the consequences of pleading guilty. Defendants aren't going to know what evidence the state has against them or what defenses they may have to the charges, and so they may plead guilty unnecessarily. On the flip side, defendants may turn down a plea deal which is actually in their best interest to accept because they did not have an attorney to advise them. In reality, these "meetings" often are coercive and unfair to defendants. These unconsented decisions and their consequences—brought about by an unconstitutional statute—can haunt people for the rest of their lives.

A recent U.S. Supreme Court decision may hold the key to ending this unconstitutional practice. In June of 2008, the Supreme Court decided *Rockwell v. Gillespie County*, 129 S. Ct. 2578 (2008). The Court held that the Sixth Amendment's right to counsel begins at the time a defendant first appears before a judicial officer to be informed of the criminal charges he faces and the restrictions imposed upon his freedom. In 2009, the Colorado Lawyers Committee formed a task force in cooperation with the National Association of Criminal Defense Lawyers to stop C.R.S. 16-7-301(4)'s systemic violation of Colorado citizens' constitutional rights.

On February 4, 2010, the Colorado Lawyers Committee Task Force sent a letter to the governor outlining grievances with the current statute and their suggested remedies. Without action from the governor a lawsuit is the next step in seeking relief.

CCJRC believes C.R.S. 16-7-301(4) is unconstitutional and harms people who do not have the means to provide their own defense. Therefore, if the Governor fails to act to remedy this violation, CCJRC has agreed to be a plaintiff in this lawsuit. We thank and applaud the commitment of the Colorado Lawyer's Committee and we will keep you posted.

2010 Legislative Update Continued from page 1

cessfully completed a deferred judgment. We hope this bill will encourage employers to hire people with criminal records because they will be less concerned about being sued.

HB 1112: Concerning the "Correctional Education Program Act of 1990"

Sponsors: Representative Miklosi (D) and Senator Newell (D)

CCJRC Position: SUPPORT (priority)

Status: This bill was passed by the House of Representatives on a 50-13 (with 2 excused) vote and passed by the Senate on a 31-4 vote. It was signed by the Speaker of the House on March 18th and as soon as it's signed by the president of the Senate it will be submitted for action by the governor.

Description: This bill is the result of a report CCJRC issued in August 2009 that highlighted deficiencies in vocational programs offered in prison. In particular, CCJRC raised concerns that very few people in need of vocational programming actually receive it while in prison, that many of the vocational programs offered do not provide training in skills that are marketable in today's economy, that completion rates are unacceptably low, and that there is inadequate reporting of vocational program performance and cost by the Department of Corrections. This bill sets performance measures for vocational programs to include market-relevant training and mandates an annual report.

HB 1090: Concerning the Punishment for a Person Who Is Convicted of Driving a Motor Vehicle with Knowledge That His or Her Driver's License Is Under Restraint

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

CCJRC Position: SUPPORT

Status: This bill was passed by the House of Representatives on a 57-6 (with 2 excused) vote and passed in the Senate on a 35-0 vote. It was sent to the governor for action on March 18, 2010.

Description: This bill would eliminate the mandatory 5-day jail sentence for a person who is convicted of driving a motor vehicle or off-highway vehicle upon any highway of the state with knowledge that his license or privilege to drive is under restraint for any reason other than conviction of driving under the influence (DUI), driving while ability impaired (DWAI), or underage drinking and driving.

Bills that passed the first chamber and are in second chamber

The following bills are more than halfway through the process, having been passed in the first chamber, either the House or Senate, depending on where they were introduced.

SB 06: Concerning Reductions in Barriers to Obtaining Identity-Related Documents

Sponsors: Senator Boyd (D) and Representative Summers (R). Co-sponsors include Senators Hudak (D), Sandoval (D), White (R) and Representatives Gagliardi (D), Kefalas (D), and Waller (R)

CCJRC Position: SUPPORT (priority)

Status: Passed the Senate on a 22-12 (with 1 excused) and passed the House Health & Human Services Committee on a 9-2 vote. The bill will next be voted on in the House Appropriations Committee.

Description: CCJRC helped to develop this bill that would help people who are struggling to get identification documents, including those released from prison. The bill would also restore, in limited circumstances, the authority of a district court to allow a person with a criminal record to legally change his or her name with notification to all necessary parties.

SB 159: Concerning Defendant Statements at a Community Corrections Hearing

Sponsors: Senator Foster (D) and Representative Miklosi (D)

CCJRC Position: SUPPORT (only with amendments)

Status: This bill was passed in the Senate on a unanimous vote and will be heard in the House Judiciary Committee on March 25, 2010.

Description: The version of the bill that passed the Senate would allow a community corrections board to decide whether to accept a written statement from an inmate applying for community corrections and whether the community corrections board would accept either a written statement or an oral presentation by a representative of the inmate at the community corrections hearing. CCJRC is working with Rep. Miklosi to strengthen this bill to make it mandatory that a community corrections board accept written statements from inmates and their supporters but would leave it discretionary as to whether the community corrections board would allow an inmate's representative to speak at the community corrections hearing.

HB 1201: Concerning Duties Related to Peace Officer Contacts

Sponsors: Representative Middleton (D), T. Carroll (D), Ferrandino (D), McFadyen (D), Miklosi (D), Pace (D), and Weisman (D) and Senator Steadman (D)

CCJRC Position: SUPPORT

Status: This bill was passed out of the House on a 37-28 vote and will be heard next in the Senate Judiciary Committee.

Description: This bill was developed by the Colorado Progressive Coalition, and CCJRC joined their effort to seek its passage. The bill requires a peace officer to advise people of their rights and receive verbal consent before an officer can conduct a search of a car, person in the car, a home, or a pedestrian. Probation officers, parole officers, and detention staff (jails and prisons) are exempted. The consent applies only to searches where there is no legal basis for the search but the officer is seeking permission for the search (aka consensual searches).

Bills in the first chamber

HB 1352: Drug Sentencing Reform (CCJJC recommendation)

Sponsors: Representative Mark Waller (R) and Senators Steadman (D) and Mitchell (R)

Co-sponsors: Representatives Pace (D), Court (D), Gardner B (R), Gerou (R), Kagan (D), King S. (R), Levy (D), Loper (R), Massey (R), May (R), McCann (D), Miklosi (D), Nikkel (R), Roberts (R), Ryden (D) and Stephens (R) and Senators Carroll M. (D), Hudak (D), Morse (D), Newell (D), Penny (R), and White (R)

CCJRC Position: SUPPORT (priority)

Status: This bill will be heard in the House Judiciary Committee on March 22nd. We anticipate a unanimous vote because all of the House Judiciary Committee

Leg Update continued from page 2

members are co-sponsors. This bill would reduce penalties for the crime of drug use or possession and redirect cost savings in corrections to substance abuse and mental health treatment. The bill also creates enhanced penalties for adults convicted of selling drugs to a minor. There is significant bi-partisan support from legislative sponsors and co-sponsors and a broad cross-section of the community.

HB 1338: Two-prior Felony Rule (CCJJC recommendation)

Sponsors: Representative Beth McCann (D) and Senator _____

CCJRC Position: SUPPORT

Status: This bill passed the House Judiciary Committee unanimously and will next be heard in House Appropriations Committee.

Description: The Commission approved legislation that would only apply the two-prior felony rule if one of the prior convictions was for a crime of violence. The two-prior felony rule states that people who have two prior felony convictions cannot be sentenced to probation on a third felony conviction without consent of the district attorney.

HB 1360: Reducing Revocations for Technical Violations

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

CCJRC Position: SUPPORT (priority)

Status: This bill will be heard in House Judiciary Committee on April 5, 2010.

Description: This bill would do three things:

- Create and fund a re-entry grant program administered by the Department of Corrections that would foster more collaboration between local parole offices and local community service providers to provide more re-entry support services to people released from prison.
- Provide funding for residential treatment or outpatient treatment as an option for those parolees who are at risk of being revoked on parole for technical violations related to addiction or mental illness.
- Reduce the amount of time a parolee can be reincarcerated for a technical parole violation. Cost savings in DOC would be used to fund the treatment and grant program.

SB 179: Changes in Voting Requirements

Sponsors: Senator Pat Steadman (D) and Rep. _____

CCJRC Position: SUPPORT (with amendments)

Status: This bill will be heard in the Senate Judiciary Committee on March 31, 2010.

Description: This bill would restore voting eligibility for people on parole. CCJRC is also working with Sen. Steadman on an amendment that would clarify that diversion clients in community corrections (both residential and non-residential) are also eligible to vote.

Bills yet to be introduced

HB ____: Changes to parole (CCJJC recommendation)

Sponsors: Representative Mark Ferrandino (D) and Senator Penny (R)

CCJRC Position: SUPPORT (priority)

Status: This bill was given late bill status and will be introduced in the next few days.

Description: This bill is based on recommendations from the CCJJ regarding changes to the statutory parole guidelines that encompassed three different recommendations: (1) change the statutory parole guidelines and require the parole board to use structured decision-making in both release and revocation hearings; (2) expand eligibility for enhanced earned time that was passed last year in HB 1351; and (3) repeal some archaic language in statute that mandates the arrest of a parolee under certain circumstances (e.g., if the parolee is in a county where there is a correctional facility without permission of the parole officer).

HB ____: Escape (CCJJC recommendation)

Sponsors: Representative Terrance Carroll (D) and Senator _____

CCJRC Position: SUPPORT (priority)

Description: This bill is also based on recommendations approved by the CCJJ that would modify the escape statute that would return judicial discretion in sentencing for people convicted of escape while on diversion in community corrections and people on ISP-parole. Under current law, a conviction for escape requires a mandatory, consecutive sentence. Inmates from DOC that are in halfway houses (called "transition" clients) would still face the mandatory consecutive sentence for walking away from a halfway house.

Bills that have been killed

HB 1219: Concerning the Authorization for the Sale of Correctional Facilities Owned by the Department of Corrections

Sponsors: Representative Vaad (R) and Senator Penny (R)

CCJRC Position: OPPOSE

Status: This bill was killed in the House Judiciary Committee on 2/22/10.

Description: This bill authorizes the executive director of the Department of Corrections to sell by competitive bid the correctional facilities owned by the state. Under current law, private prisons may only house medium security or low security inmates. The bill removes that limitation.

HB 1082: Concerning Disqualification from School Employment for Conviction of Certain Offenses, and, in Connection Therewith, Enacting the "Felon-Free Schools Act of 2010"

Sponsors: Representative McNulty (R) and Senator Penny (R)

CCJRC Position: OPPOSE

Status: This bill was killed in House Judiciary Committee on February 22, 2010.

Description: This is a similar bill to the one Representative McNulty introduced last year that CCJRC also opposed and that was killed in the House Judiciary Committee. This bill would prohibit a school district or public school from employing as a non-licensed employee a person who has a conviction for certain offenses, including any felony drug offense. The bill also amends existing mandatory disqualifications for licensed educators to include any conviction for a felony drug offense.

CSP II - THE WRONG ANSWER

and A MISUSE OF LIMITED STATE FUNDS

Coalition Opposes Funding for Opening CSP II Tower I

On Thursday, March 12th, the Joint Budget Committee unanimously approved a request by the Department of Corrections for \$9.3 million in additional general fund dollars to open 316 beds at CSP II (one tower). This request is stunning because it comes on the heels of cuts recently made to the current DOC budget (2009-2010) for prison vocational and educational programs (\$3 million cut) and wrap-around services for parolees (\$1.8 million cut) as part of the governor's \$1 billion in cuts statewide for his budget balancing proposal.

CSP II is an administrative segregation prison where inmates are locked down in solitary confinement at least 23 hours a day. Colorado already has a 750-bed administrative segregation prison (CSP I) and multiple administrative segregation units at other prisons. In total, over 1,100 people in prison, or over 5% of the inmate population, are incarcerated in administrative segregation, which is significantly higher than the national average of between 1-2%.

According to DOC's own research, approximately 37% of those in administrative segregation are inmates with mental illness. According to Ms. O'Keefe, the director of research for the Colorado DOC: "Not only were OMI's (offenders with mental illness) found in AS (administrative segregation) at a disproportionately high rate, this disparity has grown over recent years in conjunction with severely restricted funding for program services. Mental health resources have become so reduced within Colorado prisons that staff have limited their services to assessment, medication monitoring, and crisis management. It seems likely that cutbacks have affected the prison system's ability to manage OMI's in less restrictive environments." (O'Keefe, Maureen L., (2008) "Administrative Segregation for Mentally Ill Inmates," *Journal of Offender Rehabilitation*, 45:1 at 162.) Ms. O'Keefe also reported that 41% of people who are released from administrative segregation are released straight to the community either on parole or because of a sentence discharge.

A coalition has formed to oppose this incredible waste of taxpayer dollars, the misplaced spending priorities by the Department of Corrections, and the over-use of administrative segregation, particularly for inmates with mental illness. This coalition includes CCJRC, the CO Criminal Defense Bar Association, National Alliance for the Mentally Ill-CO, ACLU-CO, Colorado CURE, the state Public Defender and others.

Please contact Governor Ritter and your legislators to oppose this \$9.3 million funding to open CSP II. Governor Ritter: 303-866-2471 (To send Governor Ritter an email, go to www.colorado.gov/governor. Scroll down to "Contact the Governor's Office" and click on "write to the Governor.")

For more in-depth information on this proposal, go to CCJRC's website for the research report issued by CCJRC and the other coalition partners.