West Coast
PRISON JUSTICE
SOCIETY NEWSLETTER JANUARY - APRIL 2002

Closure of Prisoners' Legal Services

I regret to inform you that the office of Prisoners' Legal Services will be closing no later than August 30, 2002. It is possible that, due to random attrition and other events which may affect our ability to provide legal services to prisoners, we may close earlier than that date. I will keep you advised of any such developments.

As you may have heard, the British Columbia Attorney General recently decided to cut funding to the Legal Services Society by 38.8 percent over the next three years, and also directed that the Society absorb significant costs previously paid out of the AG's budget. The result is the complete dismantling of legal aid in this province. All 60 offices currently operated or funded by LSS will close, and 74 percent of staff positions will be eliminated.

By September 2002 the new service delivery structure for legal aid will consist of:

- 7 regional centres,
- a province-wide call centre providing enhanced telephone intake, and
- 24 local agents.

Although at this time we do not know in detail what services will be available, we expect there to be very little staff delivery of service. It is likely that staff will for the most part take applications and make referrals to the private bar for Charter-mandated legal services. Other services, such as summary information and advice, are unlikely to find a place in the new service delivery structure.

The office of Prisoners' Legal Services recently celebrated its 20th anniversary. Over the history of this office, we have never been able to meet all the demands of prisoners for legal services, even with our recent expansion to eight staff (one lawyer, three paralegals, and four legal assistants), and with a small but committed referral bar of private lawyers with expertise in prisoners' matters. Still, it's fair to say that we have made a mark, and have acted as a centre of expertise and clearinghouse for legal information for prisoners and their lawyers.

I expect that some form of legal aid to prisoners will continue, beyond just representation in criminal matters. What form that service will take and how it will be delivered is yet to be decided. When I know more information, I will let you know.

Ann Pollak
Managing Lawyer
Prisoners' Legal Services

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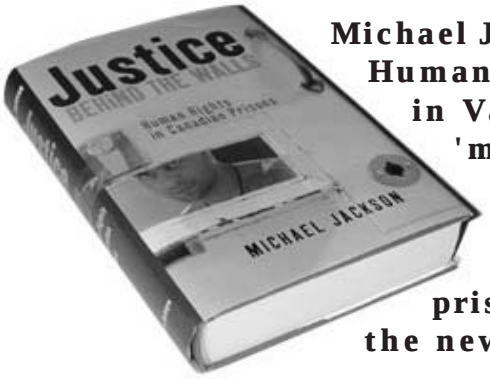

Michael Jackson's new book "Justice Behind the Walls, Human Rights in Canadian Prisons" will be launched in Vancouver on April 13, 2002. This book is a 'must read' for those people involved or becoming involved in the criminal justice system.

Featured in the book are photographs of prisons and prisoners by Shane Jackson and on the new website *www.justicebehindthewalls.net*.

Court Upholds Prisoner's Freedom of Conscience

The following judgement is printed in its entirety. The case was first brought to light in 1998 through the CSC grievance process. The basis of the grievance was the denial of the CSC institution to supply a vegetarian diet based on moral beliefs and that the request should not have been discounted or dismissed by the CSC. Prisoners should consider this case in light of the far reaching impact his persistence has had. This case has taken almost three years to wend its way through the court process.

I have always believed that prisoners should be altruistic and take advantage of whatever means are available to make progress in bringing about positive changes that could affect everyone in the system. This also holds true for people outside of the system and who have few financial means of fighting a large faceless bureaucracy. I am sure that Mr. Maurice felt that his case may have been a losing battle at times due to the length of time it took to reach the courts. Every step starting from filing a grievance at the institutional level to national headquarters has to be followed and in place before the courts will deal with the problem. Many times, some form of sanction may be placed against the person trying to correct a wrong and by doing this, the question of correction is avoided altogether. This may take the form of transfers to other institutions or denial thereof or denial of other privileges that are afforded to other prisoners. Many times the institution will invoke 'for the good order' to facilitate denial. In the end, a victory in court is a victory not only for the person who pursues justice but for everyone affected by the ruling.

What Mr. Maurice accomplished through this suit has far broader implications than getting a diet according to his moral and ethical beliefs. His case affirms that prisoners do indeed have protection of the Canadian Constitution however limited. While some people may hold the view that the suit was frivolous, it was a matter of personal commitment to an ideal and fighting a bureaucracy for the right to maintain that committment. This suit also helps other people not necessarily incarcerated in an institution but belonging to an institution such as Armed Forces personnel. This ruling forces the Department of National Defence heirarchy and other publicly funded institutions where diets have tradtionally been defined along medical or religious lines, to recognize that the people under thier jurisdiction do have the right to a diet according to thier moral conscience.

The Editor

Cont'd p...3/

Date: 20020121

Docket: T-1487-99

Neutral citation:2002 FCT69

BETWEEN:

JACK MAURICE

Applicant

- and -

ATTORNEY GENERAL OF CANADA

Respondent

REASONS FOR ORDER AND ORDER

CAMPBELL J

[1] While in the custody of the Correctional Service of Canada ("CSC") since 1998, the Applicant has repeatedly requested to be served a vegetarian diet. These requests have been denied on the basis that special diets are only authorized for religious beliefs or medical grounds. By this application, the Applicant challenges this denial.

[2] When the application in the present case was filed, the Applicant was an inmate in the Special Handling Unit at the Ste-Anne des Plaines correctional facility in Quebec; he is presently serving the remainder of his sentence in Alberta. In response to one of the Applicant's earlier requests, Warden Cloutier of the Quebec facility stated as follows:

You assert being actually vegetarian; we cannot consider the vegetarianism as being associated with a culture or with a religion. As far as the medical aspect is concerned, you do not meet the criteria to justify a therapeutic diet which is only available upon authorization by the institutional physician and such diets are prescribed on the basis of a diagnosis done by examination or established after diagnostic tests.

You have decided to avoid the food which is provided by our institution and we consider that this decision responds to your personal choice. Consequently, no other food or special nutritional menu will be authorized.(Applicant's Record, p.53).

Essentially, the Warden's opinion forms the content of the grievance denial under review in this application.

[1] The Applicant had previously been provided a vegetarian diet because of his membership in the Hare Krishna faith. However, in August 1998, the Applicant renounced his religious faith and continued to demand a special vegetarian diet based on his "freedom of conscience". The Applicant does not eat meat, fish, eggs, poultry, onions, mushrooms and garlic because of his conscientiously held belief that eating those food items is "morally reprehensible and poisonous to society as a whole" (Applicant's Record, p.42)

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[3] The Applicant filed four grievances with the Commissioner of the CSC respecting his demand for a vegetarian diet. The grievances were denied on the basis that the Applicant does not meet the religious or medical exemption outlined in the Commissioner's Directive 880, "Food Services" ("CD880"). The reasons for the final grievance, Grievance V3000A000883, dated July 14, 1999, incorporated the previous grounds for refusal contained in Grievance No. V3000A000357 and denied the grievance on the basis that the issue had been addressed previously.

[4] The Applicant in the present application challenges the decision in the final grievance on numerous grounds including violation of his rights under the *Canadian Charter of Rights and Freedoms (the "Charter"*). In my opinion, it is unnecessary to deal with the full breadth of these submissions because the fundamental issue in this judicial review is whether the Applicant is entitled, as a matter of right, to a special diet; the Applicant has stated the question as "whether the rule of law obligates the CSC to provide a vegetarian diet in accommodation of an individual inmate's non-religious beliefs" (Applicant's Application Record, p.251).

[5] Religious diets are provided to inmates as mandated by the Corrections and Conditional Release legislative scheme. Section 75 of the *Corrections and Conditional Release Act* , S.C. 1992, c.20 (the " Act ") states that inmates are entitled to reasonable opportunities to freely and openly participate in and express religion or spirituality, subject to security and safety limits. Section 101 of the *Corrections and Conditional Release Regulations*, SOR/92-620 (the " *Regulations* ") further provides that the necessities required for an inmate's religion or spirituality should be made available to the inmate, including a special diet. Section 8 of CD880 also specifically stipulates that religious diets are to be provided subject only to safety and security concerns.

[6] These provisions are based on the fundamental right to freedom of religion found in the *Charter*, Section 2(a) states that everyone has the fundamental freedom of conscience and religion. In the Religious Diets General Guidelines, the CSC has recognized this *Charter* right as well as Article 18 of the *Universal Declaration of Human Rights* (1948) which also outlines the right to freedom of thought, conscience, and religion.

[7] In the grievance under review, the Applicant specifically requested that the CSC address the issue of whether his rights under the *Charter* entitle him to a vegetarian diet. The CSC refused to do so, despite the fact that, in the context of religious diets, it has recognized the application of the *Charter* and adjusted its procedures and policies accordingly.

[8] Thus, while the CSC has recognized its legal duty to facilitate the religious freedoms outlined in the *Charter*, freedom of conscience has effectively been ignored. Section 2(a) of the *Charter* affords the fundamental freedom of both religion *and* conscience, yet by the CSC's policy, inmates with conscientiously held beliefs may be denied expression of their "conscience". In my opinion the CSC's approach is inconsistent. The CSC cannot incorporate s.2(a) of the *Charter* in a piecemeal manner; both freedoms are to be recognized.

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This is part 2 of '*The Perspective of Prisoners' Counsel*', the first of which was printed in the last issue (Nov-Dec, 2001). The various media has long held a key role in shaping public perceptions. In most cases the adage of 'If it bleeds, it leads' takes precedent as to how something is reported. In the case of criminals, the various news outlets publish the most lurid details of a crime and give very little background to the circumstances surrounding the crime or the accused. In the case of parole, there seems to be much distortion of the facts and/or glaring omissions regarding the exact nature of the parole process and its attendant supervison. From these articles, the public forms a distorted opinion regarding the difference between parole and statuatory supervision and the people released under each of those conditions. For the past several years, special interest groups and some federal Members of Parliament have called for the abolition of parole. During this period, other legislation has been enacted allowing the authorities to detain or force supervision of a person on the suspicion that they may commit an offence in the future. This can be done without actually committing any crime whatsoever. The public should be aware that these provisions can also apply to them.

Eddie Rouse, Editor

The Role of the Media

by John Conroy, QC

In our Bar paper, the Committee also addressed the controversial nature of parole as a result of media distortions and resulting public misunderstanding. As we said then:

"There is a broadly held view, which is reinforced by media reporting of the parole system, that the policies and practices of the National Parole Board needlessly expose the public to harm, usurp legitimate authority of the courts and undermine the effectiveness of sentences. Indeed from some quarters one gets the impression that if the parole system were abolished, violent crime in Canada would dramatically decrease and we could all sleep safely in our beds at night", The Sentencing Commission in its chapter 4 **"Public Knowledge of Sentencing"** pointed out that as a result of several nation-wide polls conducted by the Commission, the Canadian public overestimates the amount of violent crime and underestimates the severity of the courts and their sentencing practices. The Commission pointed out that most members of the public think that the courts are overly lenient in their treatment of criminals and that the reality, at that time, was that Canada, with an imprisonment of 108 per 100,000 inhabitants, had one of the highest rates among western nations. That rate has since increased to 135 per 100,000.

The Commission noted that when it came to parole, the surveys revealed the same dissonance between public perception and correctional reality. The public overestimates the percentage of offenders released on parole and perceives the parole board as more lenient when the reality was that release rates had remained relatively stable for the previous five years. The public overestimated recidivism by a significant margin and public objections to parole were based on their perception of inordinately high re-offence rates by parolees.

We found the Sentencing Commission's answer to why these public misconceptions had arisen to be compelling. Most people get their information about the criminal justice system from the news media, A systematic bias by the media when it deals with sentencing and parole news was demonstrated and is a major contributing factor to public misconception. In the result, the public builds its view of sentencing on a data base which does not reflect reality. The bias in the media is even more exaggerated when it comes to parole. "Newsworthiness" is determined by re-offence by a parolee, especially through a particularly violent crime. As the Bar Committee pointed out, this distortion and the media's responsibility for it is best illustrated by reports on what was then called "mandatory

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supervision".

Originally prisoners serving either federal or provincial sentences could earn one-third off their sentences for good behaviour called 'earned remission', If they served two-thirds of their sentence inside they would finish their sentences at two-thirds. But if they took a parole at one-third or later, they would remain on parole until complete warrant expiry, This remains the case in relation to provincial sentences in British Columbia. But federally, we said - if people on parole are under supervision for the last one-third of their sentences, surely those who were not a good risk for parole should also be under supervision for the last one-third. After all these people are, by definition, a greater risk to the public. So we created " mandatory supervision ". As we said in the Bar Committee Report - this was not the creation of a prisoner's right but "a tightening of the correctional screws".

> Quinsey, one of the most prolific and well-known advocates of actuarial and multi-disciplinary prediction concludes that clinical judgement has proven to be a rather poor predictor of future violence

In the result, however, the Media started taking a greater interest in breaches and new offences by those on mandatory supervision. Before they were merely re-offences by people with previous records. Now they blamed the Board even though the Board did not grant them release and these individuals were under much greater supervision than before. Nevertheless the Media and victims' groups were successful in portraying "Mandatory supervision" as an "entitlement" and that it should be abolished. They succeeded to the point where it was renamed "Statutory Release" and the Board received their power to detain prisoners until warrant expiry. This would of course entail taking those who by definition must be the very worst risks and keeping them in right until the end of the sentence. Then we would unlock them and release them, with no gradual release, back to the street. So what happened to these people? Did they re-offend soon after release because of the lack of supervision? Did they perform well because they weren't that big a risk anyway and CSC and the Board over-predicted their risk? The problem of false positives must not be ignored. Or is their ammunition here for flat or "real time" sentences indicating that we can consider abolishing parole because it doesn't make any difference anyway? My review of the NPB Performance Monitoring Report 1997-1998 does not appear to present these statistics. I have heard that they have been or are doing better than expected or perhaps than predicted. Again the problem of over-prediction of risk and false positives is a factor to consider.

There has not been a lot of Media attention focussed on these individuals. Is this because they have finished their sentences and there is no Board to try and blame for their failures? I suppose a re-offence after warrant expiry is no longer newsworthy, just like before the advent of mandatory supervision.

I would be very surprised to find that a gradual release makes little or no difference in terms of recidivism post warrant expiry. The success rates after a gradual release appear to be very good. It seems to me that the only way to answer the question is to compare those subjected to a gradual release with those that haven't but even then too many variables arise to enable an accurate or reliable prediction.

In the absence of any evidence indicating that parole makes no difference to post warrant expiry recidivism, I would not be inclined to abolish it. Replacing the discretion exercised by parole decision makers with so called "reliable statistical tools" would entail not only the abolition of the Board but also the elimination of any discretion on the part of CSC, leaving the decision as to conditional release to the results obtained or score achieved on one of these tools, presumably administered by a qualified expert, - if such exists.

Of course it must not be forgotten that the tool was created by a human being using a particular database or cohort that may or may not be valid for the particular individual subjected to it on account of race or other factors. Further, some human being has to score the individual and this introduces a subjective element into the process that can result in widespread disparities in scoring and therefore results. Some examples of the

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problems encountered in this regard are set out below.

It is my understanding that the development of various statistical tools that purport to predict and manage the risk of criminal recidivism came about as a result of the recognition that our human ability to predict the future was not very reliable, whether in the context of predicting "dangerousness" in the courtroom (seeking to declare one to be a dangerous offender) or predicting lack of risk to re-offend or risk to re-offend (in applications for parole or at post suspension or detention hearings before the parole board).

The CBA Committee in a paper (February, 1997) addressing Bill C-55, the Criminal Code amendments regarding High Risk Offenders noted the following when commenting specifically on the new provision in Dangerous Offender hearings that eliminates the appointment of a psychiatrist for each side and substitutes a remand "to the custody of the person that the court directs and who can perform an assessment, or can have an assessment performed by "experts."

But are expert and neutral resources available to warrant this degree of deference? Firstly, the clinical predictions of psychiatrists and psychologists about future dangerousness are wrong more often than they are right. The American Psychiatric Association (APA) filed an amicus curiae brief in the Supreme Court of the United States in **Barefoot v. Estelle [(1983), 463 U.S. 880]** arguing that such opinions should not be admitted in the punishment phase of capital cases because of inherent unreliability. Secondly, several controversies within the mental health field bear upon these issues. The DSM IV, the primary diagnostic text for North American psychiatrists, contains an important caution that the inclusion of peadophilia in the text "does not imply that the condition meets legal or other non medical criteria for what constitutes mental disease, mental disorder, or mental disability" and that the scientific consideration involved in categorizing this condition may be irrelevant to legal questions about "individual responsibility, disability determination and competency." Thirdly, while some practitioners within the corrections field applaud the use of actuarial prediction models, even the most ardent enthusiasts accept their limitations. The leading Canadian team of researchers in the field cautions that their model may work an injustice in an individual case:

"The present VPS (Violence Prediction Scheme) embodies within it a good deal of current knowledge and experience. No one claims that its use will guarantee "fairness", "accuracy " and "absence of bias" in each and every case." *(Webster, Harris, Rice, Cormier, Quinsey, The Violence Prediction Scheme, Toronto: Centre of Criminology. 1994 at p. 65.)*Quinsey, one of the most prolific and well-known advocates of actuarial and multi-disciplinary prediction concludes that clinical judgement has proven to be a rather poor predictor of future violence **(see V. Quinsey, "The Prediction and Explanation of Criminal Violence" (1995) 18 nt. J. of Psych and Law 117 atp.118)** Monahan, one of the leading American researchers involved in risk assessment over that past twenty years, has concluded that "psychiatrists and psychologists are accurate in no more than one in three predictions of violent behaviour" even when applied to an institutionalized sample who have already committed some violent act in that past *(J. Monahan and H. Steadman, "Towards a Rejuvenation of Risk Assessment Research" in Monahan and Steadman (eds.), Violence and Mental Disorder: Developments in Risk Assessment (Chicago University Press. 1994 at p.5)* While these authors have expressed limited optimism about the future of actuarial prediction they add that "an increase in predictive accuracy would not obviate the profound questions of social policy and professional ethics that attend any preventive use of the state's police power." (Supra at p13).

The American Psychiatric Association brief, referred to above, expressly stated:

"Although psychiatric assessments may permit short-term predictions of violent or assaultive behaviour, medical knowledge has simply not advanced to that point where long term predictions... may be made with even reasonable accuracy. The large body of research in this area indicates that, even under the best of conditions, psychiatric predictions of long-term future dangerousness are wrong in at least two out of every three cases." (APA brief at p.8-9)

In the case of "dangerous offender" hearings, the accused,

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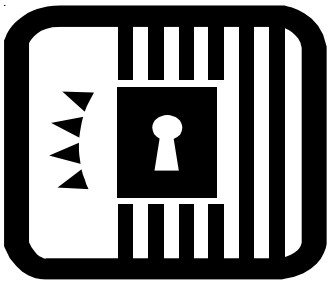
having been convicted of a “serious personal injury offence” is entitled by Part XXIV of the Criminal Code to a further hearing before a Supreme Court Justice in a court of law, represented by Counsel, covered by legal aid if necessary, to determine if the statutory criteria have been met to warrant the imposition of the label which will now result in an automatic indefinite sentence of imprisonment, subject to a parole review at 7 years and then every 2 years thereafter. Apart from the circumstances of the offenders past offences, the primary evidence at such hearings comes from psychiatrists and psychologists who not only diagnose the individual's psychiatric or psychological condition but also predict whether or not the individual is a risk to re-offend. Some of them will rely on some of these statistical tools in arriving at their opinions and conclusions. At least Counsel has an opportunity to explore the nature of the tool used, to ensure its protocol has been complied with and to ensure that the offender and the decision maker are fully informed about its strengths and weaknesses when taking it in to account in the decision making process. Witnesses are called and full examination and cross examination is permitted to test the credibility of the evidence that the Court will potentially rely upon to determine whether there is a credibly based probability that the individual is indeed a “dangerous offender “.

The concern in these types of proceedings is to ensure that only truly “dangerous” persons are locked up indefinitely and no others. Not only are we poor predictors of dangerousness but also we have a tendency to be over-inclusive when we do so. We also know that such sentences would run afoul of the Charter's proscription against “cruel and unusual treatment or punishment” if it wasn’t for the fact that parole reviews are mandated to enable the Correctional Services of Canada and the National Parole Board to tailor these sentences to fit the individual circumstances. When the Supreme Court of Canada decided **R. v. Lyons** (supra) the initial review was at 3 years and then every 2 thereafter. That these reviews do not serve the function the Court had in mind is well illustrated by the Court's later decision in **R v. Steele (1990) 80 CR (3d) 257 (SCC)**. I have not heard it being suggested that these hearings should be abolished or replaced by the application of “statistical tools” by social scientists. I wonder why that is so? After all the subject of the application is already an "offender" having been convicted of a serious offence. Perhaps it’s because it’s still part of the process that will determine the sentence and once that has been decided and fixed then we can relax and require much less exacting standards. After all these people are by then convicted criminals sentenced to imprisonment. They are being punished and don’t deserve a full hearing with witnesses and counsel when their liberty interests are considered in the future. It is interesting how the flexibility in determining what Principles of fundamental Justice or fairness should be applied to the case vary not so much according to the nature of the decision, predicting risk to re-offend and affecting liberty, but according to one's status.

Next issue

The conclusion of this article. The application of the PCL-R in determining the release eligibility of prisoners.



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[9] Vegetarianism is a dietary choice, which is founded in a belief that consumption of animal products is morally wrong. Motivation for practising vegetarianism may vary, but, in my opinion, its underlying belief system may fall under an expression of "conscience".

[10] In *R. v. Big M Drug Mart Ltd.* , [1985] 1 S.C.R. 295, at 346, Dickson J. stated that the rights associated with freedom of individual conscience are central to basic beliefs about human worth and dignity, and that every individual should be free to hold and manifest whatever beliefs and opinions his or her conscience dictates. Justice Dickson further articulated the broad scope of s.2(a) as follows:

Freedom means that, subject to such limitations as are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others, no one is to be forced to act in a way contrary to his beliefs or his conscience.

[11] Therefore, in my opinion, just as the entitlement for a religious diet may be found in s. 2(a) of the *Charter*, a similar entitlement for a vegetarian diet exists based on the right to freedom of conscience.

[12] This entitlement is further bolstered by the guiding principles for the CSC as outlined in the *Act* . Section 4(e) states that inmates retain the rights and privileges of all members of society, except those which are necessarily removed or restricted because of the sentence. Section 4(h) further stipulates that correctional programs, policies and practices should be responsive to the needs of offenders with special requirements. These broad principles reinforce the view that dietary needs based on religion or conscience should be accommodated.

[13] It is important to note that, in the context of special diets available to inmates, religious diets and vegetarian diets are closely related. The CSC Religious Diets General Guidelines indicate that, in practice, many religious diets include some form of a vegetarian menu. As a result, accommodating a vegetarian's conscientiously held beliefs imposes no greater burden on an institution than that already in place for the provision of religious diets. In fact, the guidelines reveal that the CSC has conducted the necessary research to enable it to provide properly planned and nutritious vegetarian menus. The CSC has taken positive measures to ensure that religious freedoms are protected. In my opinion, positive measures also must be taken to facilitate freedom of conscience, subject only to the same safety and security limitations that exist for accommodation of religious beliefs.

[14] For an inmate to take advantage of this finding, cogent evidence must be produced to prove the conscientious belief to a balance of probabilities. On the evidence in the present case, I have no difficulty finding that the Applicant does have a strongly held belief regarding the consumption of animal products. The Applicant's numerous requests and grievances regarding this issue, the extensive time and effort he has expended on this judicial review, as well as his sustained efforts to maintain a vegetarian diet, is strong evidence that he holds a conscientiously held belief that falls under the meaning of "conscience" under s.2(a) of the *Charter*. In my opinion, both the *Charter* and the Corrections and Conditional Release legislative scheme entitle the Applicant to a vegetarian diet.

[15] In the application material Mr. Maurice is noted as objecting to eating certain vegetarian foods, such as onions, mushrooms and garlic. However, at the hearing of the present application, Mr. Maurice specifically stated that his primary interest in bringing the application is to be served

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a lacto vegetarian diet while incarcerated. Upon immediately receiving instructions with respect to this very specific request, counsel for the Respondent was able to say that, if it is decided that the Applicant has a s.2(a) *Charter* right which has been infringed, the Respondent has no objection to meeting the Applicant's request for a vegetarian diet.

ORDER

[16] Accordingly, I hereby set aside the decision in Grievance Number V3000A000883, and refer this matter back for redetermination in accordance with these reasons.

[17] I award the Applicant costs for his proven out of pocket expenses, which I find to be $1,560.00.

Douglas R. Campbell

Judge

Edmonton, Alberta

January 21, 2002.

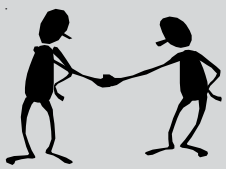
Requests for Legal Help from the WCPJS

We would like to remind our readers that the WCPJS does not deal with individual problems prisoners encounter during their incarceration. We have been receiving a number of requests for legal help from individuals. Our focus and mandate have always been to report on issues related to prisons that could affect the status of incarceration of prisoners and ex-prisoners generally. Some of these issues include changes in legislation, administrative law and court challenges that affect the quality of life within prisons. We believe that accurate information is necessary for prisoners and other people involved in the criminal justice system.

If you have an issue that you feel needs individualized legal help, please contact Prisoners' Legal Services or your own lawyer. Those people have the knowledge and expertise to deal with issues related to prisoners and their incarceration. The West Coast Prison Justice Society does not have the resources to become involved in individual issues that can or may be resolved through the possible intervention of an advocate from ***Prisoners' Legal Services*** or an individual's own lawyer. Prisoners in British Columbia can contact PLS by mail or telephone. Please refer to page 12 of this newsletter.

Thanks for the Support

The WCPJS gratefully acknowledges the financial contribution from the



Public Legal Education Program of the Legal Services Society

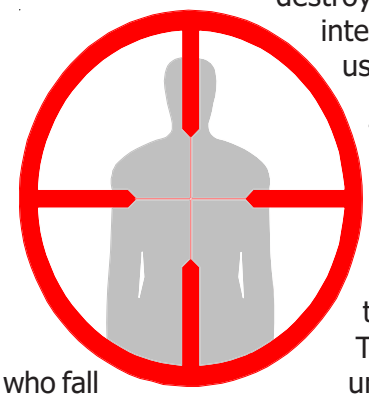
which enables the publication of this newsletter.

I Hate It When I'm Right

by Eddie Rouse

Several issues and a couple of years ago I wrote a number of articles on the future of surveillance and the application of technology in the pursuit of this goal. One of the issues I wrote about was the formation and implementation of a DNA data bank that would be used for everyone who had a criminal record. This has come to pass in recent years and is now law in Canada although it currently applies to sex offenders and persons with multiple charges of violence on their record. It has not yet been 'grandfathered' to include everyone who has ever been charged and convicted of an offence. It is interesting to note that a number of individuals and organizations have suggested collecting DNA samples from newborns in order to protect them in the future. There seems to be widespread interest in this concept but everyone should ask himself or herself how this newborn data bank may be used in the future.

Another article dealt with the Japanese development of a chip that included a mini-cam that could be attached to cockroaches. This chip could also control the movements of the insect through shocks with which the operator controlled the direction. One of the applications for this 'bug' would of course be spying. No one would be looking for a mobile video/listening device that comes through cracks in the wall. Other applications for such a device could include search and rescue of people trapped in destroyed buildings. These uses are, on the surface, reasonable and in the interests of the public. My question is: what happens if the state decides to use this as a means to spy on and control its citizens?



The ubiquitous cell phone and pager that seem to be part of everyone's wardrobe today are ready made tracking devices thanks to improved cellular technology that constantly triangulates position as a person moves about from one cell to the next. The use of cell phone records for evidentiary purposes in courts of law has already been established throughout North America and a number of countries around the world. This technology is a ready-made tool to monitor the movement of individuals who fall under suspicion by the authorities because of acceptance by the public. The police need only get a warrant to intercept any transmission and digital records relating to that phone or pager.

Another of my concerns dealt with the application of miniaturized electronic technology such as computer chips and their implantation into the human body. I wrote that it wouldn't be very long before some individual or corporation would use

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Prisoners/Parolees	*- Free*

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miniature computers which could be implanted subcutaneously on a person and would be used on prisoners to keep track of where they were within an institution. Persons deemed a certain class of criminal and applying to be released on parole would have to agree to undergo implantation of this chip in order to be granted parole. I stated in the article that once the concept gained public acceptance, the next step was to apply the same requirement to the public. Imagine my surprise when perusing through the newspaper ***(The Province 27.Feb.02 A22)*** that Applied Digital Solutions in Palm Beach, Florida is seeking permission from the US Food & Drug Administration to implant computer ID chips on people. ADS have two types of implants: the 'Verichip' and the 'Digital Angel'. The Verichip or a version of it has been in widespread use for several years throughout the world tracking livestock and in pets. The Verichip carries personal information and the Digital Angel is used as a Global Positioning System. Both chips are about the size of a ballpoint pen nib and can be installed under the skin through injection or a minor operation. Once in place, they are virtually undetectable except for a small scar.

The ADS marketing scheme utilizes the fear factor of executives, working in foreign countries (i.e. South America) who are more likely to be targets of kidnappers, for promoting the implantation of their 'Digital Angel' product. Companies and authorities would be able to track a kidnapped employee through the Global Positioning capabilities of the Digital Angel chip. I would surmise that this chip would have some sort of built-in power generation that would utilize the movement of the body. The GPS feature needs to have some sort of power in order to function. Will a person's employment with a company doing business in certain countries be dependant on thier agreement to have these chips implanted in them? Will that same concept carry over to employment where personal security is not an issue?

According to the literature on the ADS website, the 'Verichip' will be bundled together in an all-inclusive package that will allow companies to control access of people coming and going into secure areas of an office for example. A sensor, from up to a distance

Cont'd p...19)

PRISONERS' LEGAL SERVICES

We can help you with your prison and parole issues. We can also assist with disciplinary charges.

Federal prisoners in BC may call us toll-free at 1-888-839-8889 on Millennium, or on the administrative phones. The correctional authorities tell us that we are a "common access number", which means that you do not have to enter us on your authorized call list. If you don't have a PIN, ask to use the administrative (or non-Millennium) phones.

BC Provincial Prisoners call us collect at (604) 853-8712, except for those at North Fraser who use our toll-free number above.

We answer the phones daily from 9:00 am to 3:00 pm Monday to Friday.

We are a small office of only eight staff, including one lawyer, serving prisoners across BC. We cannot take every case that comes our way , but can usually at lest give some advice.

If you wish to appeal your conviction or sentence in a criminal matter, please call the Appeals Department at the head office of the Legal Services Society in Vancouver by calling (604) 601-6000 collect, and ask to speak to a person in the **Appeals Department**.

Cont'd from .../p12

of forty feet, can read information contained on this chip. The device is passive until activated and powered by radio waves sent from a sensor. This information can be programmed into a computer to allow access into high security or restricted areas. Within a prison setting, a guard need only enter a name and corresponding number to allow a prisoner access through electronically controlled gates or a series of them. For example, a prisoner may need to go through several checkpoint gates on his or her way to the visiting room. Walking through sensor readers at each barrier would open the gate. The time of passage would be recorded and stored in a computer for later retrieval if necessary. Although prisoners are already under surveillance twenty-four hours a day, seven days a weeks for years on end, are they ready for this? Is the largely uninformed public ready for government incursion into their bodies and lives? There are many issues that will have to be considered. Foremost is the preservation of individual rights from erosion by governments and their agencies.

JOHN HOWARD SOCIETY OF THE FRASER VALLEY

The JHS worker is available with information and assistance on the following:

- *Services for Families*
- *Accommodation for Visitors*
- *Halfway house information*
- *Parole preparation*
- *Street survival Tips*
- *Community based programs and services*
- *Social Insurance Applications*
- *BC Medical Applications*
- *Welfare rates and information*
- *Substance Abuse programs and services*
- *Counselling*

And other concerns

Visitation is provided in the following institutions

Matsqui, RHC, Ferndale, Mission, Mountain, Kent PC, Kent GP and Elbow Lake.

Please refer to the institutional brochures posted in each institution for dates and times of the JHS workers schedule.Federal prisoners in BC can call us at 1-877-640-1122

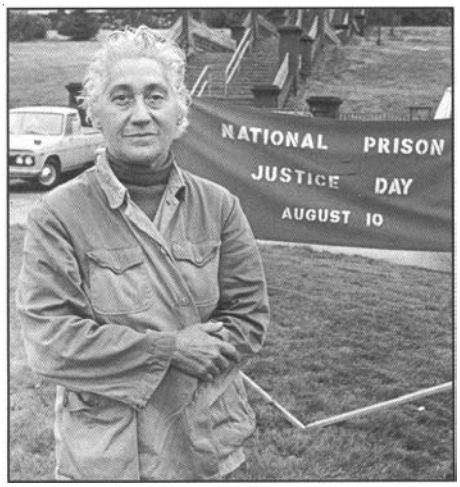
NOTICE TO ALL PRISON VISITORS

Are you aware that the ***JOHN HOWARD SOCIETY FAMILY HOUSE*** exists to serve you? We recognize that visiting a loved one who is incarcerated often means financial strain for families. If you are visiting from out of town and are finding accommodation costs difficult, you are invited to contact

JHSFV Family House
Abbotsford, BC
Telephone: (604) 852-1226

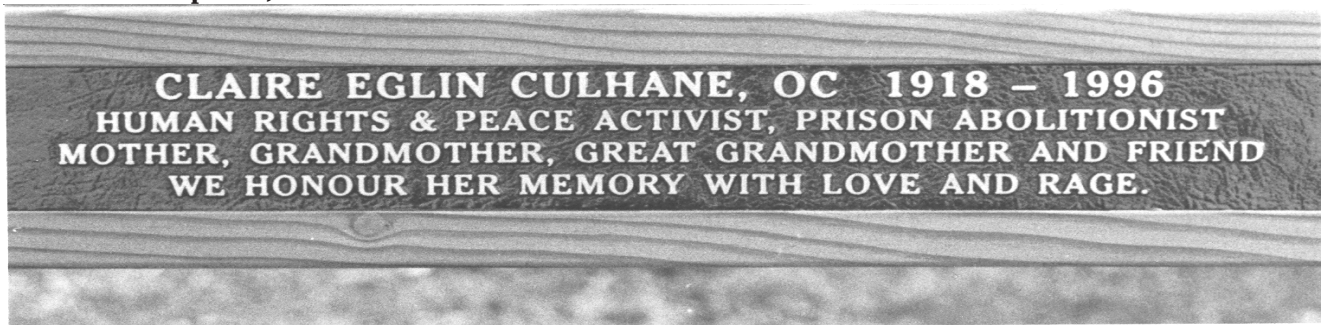
You are Invited to Attend

The Claire Culhane Memorial Bench Dedication



Claire was the champion of those people whose plight was ignored by society. She was a person of integrity and lived by her word. She fought the unpopular fights to bring to public awareness the injustices faced by many people throughout Canada and the world.

Before she took up the cause of prisoners, she fought against the atrocities committed against the Vietnamese people and the complicity of Canada in that dirty war. She chained herself on Parliament Hill to bring this to the attention of Canadians and forced the politicians to answer hard questions. During the 1940s, she fought against the injustice of employers who wanted to make virtual slaves of their employees and make them work in substandard and dangerous conditions. Claire and people like her are the conscience of society. Claire left this earth on April 28, 1996.



April 28, 2002 from 11AM - 1PM

15TH AVE & VICTORIA DRIVE VANCOUVER BC.

JOIN FAMILY, FRIENDS, AND ALLIES IN THIS MEMORIAL GATHERING TO HONOUR THE LIFE AND WORK OF POLITICAL ACTIVIST CLAIRE CULHANE. THERE WILL BE SPEAKERS AND REFRESHMENTS. THE BENCH IS LOCATED ON THE SANDY SOUTHEAST END OF THE LAKE, NEAR THE SNACK BAR.

EVERYONE IS WELCOME TO ATTEND

The West Coast Prison Justice Society was started in 1993 and incorporated in February 1994. The objectives of this organization are to further the application of justice in B.C. penitentiaries, prisons, jails and reformatories. Through our newsletter, we wish to provide prisoners with an open forum for ongoing dialogue. We will try to provide legal interpretations of recent legislation and current prison case law and to bring to the forefront the major issues which concern prisoners in B.C. We will also keep you updated with respect to current Legal Aid policies. We share the commitment to work together towards these goals.

Your responses and your suggestions are key to the success of this ongoing process. In order to be able to address the problems that you believe are most relevant to conditions inside the walls and when on parole, we rely on your questions and comments. We also wish to hear how any legal precedent and/or legislation is affecting you.

PURPOSES OF THE WEST COAST PRISON JUSTICE SOCIETY

a) To promote the provision of legal services to people who are incarcerated in the Lower Mainland and Fraser Valley of British Columbia, and who are financially unable to obtain legal services privately.
b) To encourage the provision of legal services to prisoners whose problems arise because of their unique status as prisoners.
c) To promote the rule of law within prisons and penitentiaries.
d) To encourage prisoners to make use of the legal remedies at their disposal.
e) To promote the fair and equal treatment of prisoners, by assisting prisoners who face discrimination based on such matters as sex, aboriginal origin, race, colour, religion, national ethnic origin, age or mental or physical disability.
f) To encourage the application of the Canadian Charter of Rights and Freedoms inside prisons and penitentiaries.
g) To promote openness and accountability in the prisons and penitentiaries of British Columbia.
h) To promote the principle that incarcerated people must be treated with fairness and dignity.
i) To promote the abolition of prisons through the reform of the criminal justice system.

WEST COAST PRISON JUSTICE SOCIETY

We would be pleased to hear from you. Please write, or have someone write for you, to:

West Coast Prison Justice Society
c/o Conroy and Company,
Barristers & Solicitors
2459 Pauline Street, Abbotsford, B.C. V2S 3S1