

2018 Hawai'i Access to Justice Conference
"Fighting for Access to Justice for All"
Friday, June 29, 2018

Workshop summary:¹

"Expanding Civil Access to Justice in Prisons and Jails"

Presenters: Mateo Caballero, Legal Director, American Civil Liberties Union of Hawai'i; Kathleen Algire, Director of Public Policy and Advocacy at YWCA O'ahu; Denise Pennick, Pro Se Staff Attorney, U.S. District Court of Hawai'i; Eric Seitz, Law Office of Eric Seitz; De Mont Conner, Chair, Ho'omanapono Political Action Committee.

ACLU Legal Director Mateo Caballero was the facilitator for this year's workshop on "Expanding Access to Justice in Prisons and Jails." Mr. Caballero began by providing some context about the "deep crisis" of access to Justice in Hawaii's jails and prisons and then having each panelist why access to justice in prisons and jails was important to them. The panel included: YWCA Policy Director Kathleen Algire, federal attorney Denise Pennick, attorney Eric Seitz, and De Mont Conner from Ho'omanapono Political Action Committee. The impassioned workshop focused on three critical issues: the status of access to justice in correctional facilities, the consequences of lack of access to justice for inmates, and what needs to be done to empower and provide access to justice to prisoners and detainees.

According to Ms. Algire, the women inmates that she has worked with are unaware that they have any rights. These women are under the impression that once incarcerated not only are their lives stripped away from them but their rights as well. Mr. Seitz stated that prisoners are the "most oppressed people, subjected to the worst abuses." Mr. Conner chimed in that he believed that "a few should serve but the majority need equal justice." Mr. Conner also shared that he was once an inmate and while incarcerated he had to fight for his rights. Mr. Conner stated that he fought for the Law Library that his prison implemented. However, privileges to the law library can easily be taken away from a prisoner by a disgruntled guard or person in charge.

Ms. Pennick explained that there is no right to appointment of counsel in most civil cases, as opposed to in criminal cases. But many federal courts, including the District of Hawaii, waive fees and use unappropriated funds to pay for limited expenses incurred by pro bono attorneys.

The panel stated in their own way that for the fortunate inmates that do find representation most times, that attorney is their only link to the outside.

Without legal representation prisoners suffer prolonged medical care or receive no medical care at all. Ms. Algire believes that a lack of civil liberties can derail attempts for rehabilitation, loss of family, and home. Mr. Seitz declared that the “people that run the prisons are afraid of prisoners. Prisoners are sent to prison for punishment, not rehab.” Mr. Seitz believes that providing legal representation to inmates “gives a voice to the problems in prison.” This all holds true especially for Hawaiian prisoners that “the state prostitutes” to mainland facilities exclaimed Mr. Conner, which garnered a loud applause from the audience. The panel agreed that the families of Hawaiian prisoners sent to another state suffer a heavy financial burden resulting from expensive phone calls, and many cannot afford to visit their loved ones. This disconnection to family and community results in prisoner recidivism.

Mr. Seitz informed the audience that the Hawaii Prisoners Rights Project was a stand-alone entity created and funded by the state legislature in the late 1970s that lasted for just a few years until it was defunded.

So, what can be done? Each panel member had their own individual suggestions to begin to address this massive problem. Ms. Algire recommended that anyone can donate suits and clothes to women that are coming out of the prison system.

Ms. Pennick suggested that if pro bono attorneys could not take a whole case perhaps they can be appointed to do limited services on parts of a case as well as volunteer to write a letter, amendment, or a motion for summary judgment etc. In the District of Hawaii, pro bono attorneys are often appointed on a limited basis, that is, for a single motion, discovery issue, settlement conference, or hearing, to prevent overburdening the volunteer attorney. The court is always grateful, however, when an attorney volunteers to continue representing the prisoner or other indigent litigant.

Mr. Conner suggested community involvement in penitentiary reform as well as an unprecedented idea of providing better training and conditions for the guards. Mr. Conner shared that he has sympathy for the guards. He believes that “improved conditions for the guards equals better quality treatment to the prisoners.” Mr. Seitz was the last to speak and pleaded that attorneys take on pro bono cases in order to provide a great service.

There are many misunderstandings about the role of prisons and jails, but the panelists provided several reasons to get involved to fix access to justice in prisons and jails. Mr. Seitz stated, “It’s a moral right.” Mr. Conner seems to want to better the country when he declared that “You can judge a country by how they treat their criminals.” Ms. Pennick said that prisoners are “not

supposed to be punished unduly.” Panelists encouraged the audience to get more involved as volunteers, advocates, and supporters of reforming the criminal justice system to make it more humane.

¹ A draft was prepared by Monica McConnell, Legal Aid Society of Hawai‘i, and edited by the presenters.