
Juvenile Law Reader

Youth, Rights & Justice

ATTORNEYS AT LAW

An independent, not-for-profit law firm, Est. 1975

Volume 8, Issue 1 • February 2011 / March 2011

Juvenile Sex Offender Registration

Overreaching in Oregon

By Mark McKechnie, Executive Director

Oregon first established a law in 1989 requiring juveniles adjudicated of listed sex offenses to register with law enforcement. Over the years, a number of offenses, including misdemeanors, have been added to the list. Today, Oregon's registration requirements are more strict and more extensive than at least 38 other states.

Roughly a dozen states have had no juvenile sex offender registration requirement. Most other states limit the registration requirements based upon the age of the youth or the severity of the offense. Another dozen states have registration requirements that automatically terminate after a period of years or after the youth reaches

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Briefs filed in *Camretta*

US Supreme Court Argument
March 1st

Camretta and Alford v. Greene, a case brought to the United States Supreme Court by a Bend, Oregon CPS worker and a deputy sheriff has been briefed and is set for argument on March 1, 2011. For more information, see *Juvenile Cases in the U.S. Supreme Court*, Juvenile Law Reader, Vol. 7 Iss. 6 (December 2010/January 2011) and *The 9th Circuit Weighs in on the Rights of Parents*, Juvenile Law Reader Vol. 7 Iss 4 (August/September 2010).

The case has gathered significant interest from legal and other groups with 10 amicus briefs being filed in support of the Petitioners' position and 18 amicus briefs being filed in support of the child S.G.'s position. The 18 amicus briefs supporting Respondent's position are from about 70

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ascertain age, such as 18 or 21 years.

Oregon, by contrast, imposes lifetime registration for youth adjudicated as juveniles, and there is no minimum age. As it applies to juveniles, Oregon law goes well beyond the federal Sex Offender Registration and Notification Act (SORNA), also known as the Adam Walsh Act, which only requires registration for offenders who are 14 or older and only those who commit the most serious felony sex offenses involving force or incapacitation of the victim.

As a result of Oregon's lifetime registry law for juveniles and very limited opportunities for relief, there are a growing number of individuals who are registered for juvenile offenses. Between May and October 2010, the number of Oregonians who had been required to register based upon juvenile adjudications increased from 2,302 to 2,414.

The Legislature has changed the law regarding relief from registration twice in the last decade. Initially, juvenile offenders had to wait 10 years to petition for relief, as adult offenders do. In 2001, SB 370 allowed youth offenders to petition much earlier, but only in the first 90 days after court jurisdiction ended. In 2003, the Legislature enacted HB 2756, which created the current relief scheme. Youth must wait two years after jurisdiction terminates and they can apply for relief no later than five years after jurisdiction terminates. According to the limited records available from 2003, a representative of the District Attorneys responded to legislators' concerns about the five-year

limit by saying, "the record gets stale after a period of time."

During hearings on the relief statutes, legislators also expressed concerns that former juvenile offenders had no access to public defense representation to assist them with the relief process. In fact, the inability to access legal counsel effectively bars many individuals from successfully petitioning for relief within the current three-year window of opportunity.

Lifetime registration imposes serious consequences. Registrants are explicitly barred from federal public housing programs, and they are often rejected by private landlords, as well. An increasing number of employers also screen out registrants, regardless of the seriousness of the offense or how much time has passed. Because the law does not distinguish between juveniles and adults who are required to register, it is no surprise that landlords, employers and the public do not seem to draw a distinction either.

Registrants also experience social isolation, harassment and even threats from a public that often misconstrues the histories of juvenile offenders and which imagines that registrants pose a serious threat to themselves, their children and to the public.

Decades of research conducted since these registry laws were put into place show that youth who are adjudicated of sex-related offenses are extremely unlikely to commit similar offenses again in the future, which raises serious doubts about the usefulness of registration for youth.

The highest accepted recidivism rates cited are about 14% for juvenile sex offenders.

However, most studies place juvenile recidivism rates even lower, between 5% and 8%. This means that more than 9 out of 10 youth who are required to register do not pose an ongoing risk to reoffend.

Further, a 2007 study by Michael F. Caldwell of the University of Wisconsin (published in the journal *Sex Abuse*, 2007) found that there was little difference between juvenile offenders who were adjudicated of a sex offense and those adjudicated of non-sexual offenses when it came to the likelihood that they would commit sex offenses within five years of release from juvenile custody. In the study of 2,029 juvenile offenders, rates of future sex crimes among both groups were very low -- 6.8% for adjudicated sex offenders and 5.7% for adjudicated non-sex offenders, a difference that is not statistically significant.

The author of the study specifically questions the assumption "that sexual offending is driven by stable traits that are relatively unaffected by the developmental maturation or changing life circumstances of adolescence. (p. 108)" The results strongly indicated that most adolescent sex offenders simply mature and grow up and are not likely to pose an on-going risk to commit similar offenses. The study also posited that the vast majority of youth who engage in similar "offending behavior" are never identified or prosecuted. The author cites another study which estimated that 1 in 4 adolescent boys have engaged in such behavior, yet a minority of these incidents are detected or reported.

Caldwell's study concludes that "the bulk

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The Juvenile Rights Project is dedicated to improving the lives of vulnerable children and families through legal representation and advocacy in the courts, legislature, schools and community. Initially a 1975 program of Multnomah County Legal Aid, JRP became an independent 501 (c) (3) non-profit children's law firm in 1985. The Juvenile Law Reader is distributed electronically free of charge.

It is partially funded by the Office of Public Defense Services.

Tax deductible donations are welcome and can be sent to the JRP offices.

Queries regarding contributed articles can be addressed to the editorial board.

Youth, Rights & Justice

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The Law Reader is published six times a year by:

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www.youthrightsjustice.org

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of community sexual violence involves individuals that are not [registered], and identified juvenile sex offenders are unlikely to persist in sexual offending, or present a greater risk of other serious offending. (p. 113)"

Based upon these results, he concludes, as many others have, that requiring individuals to register based upon offenses committed during adolescence (or pre-adolescence) provides little or no public safety benefit. It is tragic that a policy which provides such little benefit at the same time imposes such a high cost on the individuals required to register and upon their families, as well.

A coalition of groups who serve youth, including Youth, Rights & Justice, OCDLA and the Oregon Alliance of Children's Programs, is supporting proposed changes to Oregon's registry statutes, as they apply to those adjudicated as juveniles. House Bill 2660 would eliminate misdemeanors and Class C felonies from the list of offenses requiring registration. The court would consider imposing registration on a case-by-case basis for youth adjudicated of Class A and B felony offenses at the end of the court's jurisdiction. The bill would also modify relief procedures for those already required to register as juveniles, extending the time beyond the current five-year window. Those interested in the proposed legislation can contact Mark McKechnie at Youth, Rights & Justice (Mark@jrplaw.org) or Maura Roche of StrategyWorks NW (maura@strategyworksnw.com). ●

Advocates Guide

School Disciplinary Hearings and Alternatives to Student Exclusion

By **Brain Baker, Attorney**

As advocates, when faced with the possibility of a school exclusion, either through suspension (up to 10 school days) or expulsion (up to a calendar year for weapons), we must quickly marshal supportive resources to explore alternative options with school district officials. Such resources may include community-based service providers such as coaches, therapists, mentors, and child and family case managers; any and all supportive adults who know and work with the child and family; and a list of the pro-social activities such as extra-curriculars, employment, and hobbies in which the student is involved. The ultimate goal is to present an alternative plan to the school that demonstrates how these existing supports and adults in the student's life, will assist him/her to continue to participate successfully in school without further behavioral disruption.

The student, his/her family and community supporters should request to meet with school/district officials to discuss the behavioral incident and alternatives to exclusionary discipline. Options may in-

clude a conference with the parent/child, mediation between affected parties, and service referral/intervention (alcohol and drug evaluation/education/treatment, mental health evaluation, and/or social skills training or restorative measures, such as community service, formal apology, and so on).

The ultimate goal is to present an alternative plan to the school that demonstrates how these existing supports and adults in the student's life, will assist him/her to continue to participate successfully in school without further behavioral disruption.

Most behavioral referrals do not require mandatory school exclusion. School district officials wield significant discretion. Advocates should obtain and review district behavioral guidelines, often posted on-line as student handbooks on rights and responsibilities, which detail the district's response to a particular behavior. Advocates should discern where the district has discretion for a non-exclusionary response to the behavior. Advocates should also familiarize themselves with state administrative rules at OAR 581-021-0065 and 0070 on student conduct for guidance on student due process rights when facing school exclusion. Broad guidance on student

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expulsion is found in statute at ORS 339.250. School district policy provides the most detail on the specific procedures it will follow in an expulsion case.

When facing expulsion, students are entitled to notice of the district's intention to exclude, a hearing, access to evidence and opportunity to present evidence, a recorded hearing, a neutral fact-finder, and a right to bring representation, whether legal or non legal. (See OAR 581-021-0065 and 0070). If the child is eligible for special education services, the IEP team must meet to determine if the behavior is related to disability under special education provisions in OAR 581-015-2420. Expulsion is not available if the team determines there is a substantial relationship between the behavior and the student's disability. When the behavior is determined to be a manifestation of the child's disability, the special education team will then address additional supports to the child through the special education process. If the behavior is not related to the student's disability, administrators can proceed with an expulsion hearing and determination. If expelled, however, the student continues to be eligible for a free and appropriate public education and the services outlined in the student's individual education plan (IEP) as needed to participate in the general education curriculum and progress toward goals in the IEP, although in a different education setting as determined by the IEP team.

Advocates should also bear in mind that

some behavioral referrals could result in the school contacting law enforcement, and it may be necessary for the student to invoke his/her right to remain silent in school disciplinary proceedings so as to not prejudice a subsequent delinquency case if the student has been charged in juvenile court or may be charged.

Finally, if the student is expelled, advocates should pursue administrative appeal with the district's superintendent or school board as an additional level of review of decision-making. Also, in most instances—alternative education is discretionary for weapons expulsions—students are still permitted to access alternative education options at district expense during the expulsion and can return to the general education setting after the expulsion ends. District personnel should work with the family and the student to identify an appropriate alternative education setting that will fit the student's learning style. See OAR 581-021-0071. ●



“We will never have true civilization until we have learned to recognize the rights of others.”

– *Will Rogers*

Oregon Legislature

Bills of Interest

The 2011 Oregon Legislature convened its regular session on February 1st. There are a number of bills concerning juvenile law and related policy areas. There are also a number of bills regarding human trafficking or the Commercial Sexual Exploitation of Children (CSEC), including Senate Bills 425-429 and House Bill 2714. Below is a partial list of bills introduced so far. The bill texts and information about committee schedules can be found on-line at: <http://www.leg.state.or.us/>

SB 402 -

Modifies definition of "previous conviction" and "prior conviction" for purposes of certain criminal statutes when person is under 18 years of age at time crime is committed.

SB 403 -

Modifies definition of "previous conviction" for purposes of Ballot Measure 73 (2010).

SB 410 -

Prohibits trial court from imposing sentence on remand that exceeds sentence imposed before appeal, unless longer sentence required by law.

SB 411 -

Establishes standards and procedures for

determining fitness of youth to proceed on delinquency petition.

SB 425 -

Provides that defendant's knowledge of victim's age is immaterial in prosecution for compelling minor to engage in prostitution.

SB 426 -

Requires Oregon Criminal Justice Commission to administer grant program designed to reduce commission of certain crimes committed against minors.

SB 427 -

Requires court to impose fine in specified amount on certain persons convicted of prostitution.

SB 428 -

Authorizes placement of child in facility that provides care and services to victims of sexual exploitation if child engages in certain prostitution-related activities and if peace officer or other person taking child into protective custody has reason to believe that, if released, child is likely to continue to engage in prostitution-related activities.

SB 429 -

Authorizes detention of minor accused of certain prostitution-related conduct for up to three judicial days under certain circumstances.

SB 450 -

Creates evidentiary privilege for

Continued on next page »

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confidential communication made by minor to parent.

SB 451 -

Requires Legislative Assembly to provide funding for statutes created or amended by initiative petition.

HB 2046 -

Enacts Interstate Compact for the Placement of Children.

HB 2050 -

Removes "permanent foster care" as option for out-of-home placement of ward in substitute care of Department of Human Services.

HB 2051 -

Provides that Department of Human Services is to determine qualification for and set amount of adoption payments through negotiations with prospective adoptive parents.

HB 2052 -

Expands definition of "child" for purposes of payments to subsidize adoption made by Department of Human Services.

HB 2059 -

Provides that moneys payable to ward in custody of Department of Human Services under settlement agreement or pursuant to judgment shall be paid into trust account or subaccount established by Department or Oregon Health Authority for purpose of receiving such funds.

HB 2108 -

Establishes standards and procedures for determining fitness of youth to proceed on delinquency petition.

HB 2178 -

Includes preschool in meaning of school for purposes of controlled substance offenses committed within 1,000 feet of school.

HB 2183 -

Creates crime of making a false report of child abuse.

HB 2272 -

Authorizes court appointed special advocate to consult regarding records relating to child or ward.

HB 2675 -

Reduces possession of user quantity of controlled substance in Schedules I and II to Class A misdemeanor if person has not previously been convicted of possession of controlled substance.

HB 2707 -

Requires agreement between county juvenile department and sheriff or other jailer before certain persons who are 16 or 17 years of age may be detained in jail or other place where adults are detained.

HB 2714 -

Modifies crime of prostitution.

HB 2742 -

Requires persons who commit certain crimes against animals to register with law enforcement agencies.

HB 2764 -

Requires school district to have policy that requires expulsion from school of student who is required to report as sex offender.

HB 3057 -

Eliminates statute of limitations for crimes committed against minors.

HB 3066 -

Requires Department of Justice to establish restitution collection pilot program in geographically dispersed counties or regions and to make grants to enable district attorney's offices in participating counties or regions to employ one restitution clerk.

HB 3068 -

Permits state to appeal to Court of Appeals from justice court of record or municipal court of record.

HB 3086 -

Requires preparation of minority racial and ethnic impact statement by Department of Human Services when legislation may affect minority racial and ethnic population receiving child welfare services.

HB 3090 -

Establishes right of man claiming to be father of child born out of wedlock to challenge presumption or voluntary acknowledgment of paternity.

HB 3100 -

Modifies jurisdiction of Psychiatric Security Review Board.

HB 3101 -

Modifies duties of State Commission on Children and Families and abolishes State

Commission on Children and Families Account.

HB 3104 -

Includes youth correction facility staff within definition of "staff member" for purposes of assault in the third degree and aggravated harassment. ●



“There are risks and costs to a program of action. But they are far less than the long-range risks and costs of comfortable inaction.”

— John F. Kennedy

« Camretta continued from page 1

groups. Juvenile Rights Project, Inc. was among amici on the brief of the Juvenile Law Center, *et al.* in support of the position of the child S.G.

The JLC brief argues that the Ninth Circuit correctly found that the seizure and questioning of nine year old S.G. by Petitioners Camretta and Alford was an unconstitutional seizure in violation of the Fourth Amendment.

The full text of all of the briefs is available on Respondents counsels' website at: www.lanskub.com/cases/cvamreta-v-greene/ ●

Juvenile Law Resource Center

JLRC Progress Report

The Juvenile Law Resource Center (JLRC) is proud to release its first progress report. This report highlights the work that the JLRC has done since its inception, and reaffirms the JLRC commitment to improving the representation of parents' attorneys in child welfare dependency proceedings. The JLRC assists attorneys representing parents in such proceedings throughout Oregon, and provides many valuable resources relevant to parent representation.

Parent Attorney Case Support

To date, the JLRC has devoted more than 130 hours of attorney and law clerk time to assist lawyers representing parents on their specific case-related needs. The JLRC has provided advice and assistance to 53 parents' attorneys in 18 Oregon counties, including general and case-specific advice, as well as legal research, in-depth analysis of particular issues, and motion and brief writing. Requests for assistance from the JLRC have related to a wide range of issues, just some of which include: jurisdiction, appeals, ethics, standards of practice, interstate compacts, the Indian Child Welfare Act, the use of experts and psychological evaluations, child welfare procedure, disclosure

of client information, services for parents, criminal charges, guardianship, adoption, termination of parental rights, accessing client information from state agencies, incarcerated parents, permanency planning, domestic relations, and substance abuse. The JLRC accepts requests for case support from parents' attorneys on an ongoing basis.

Case Law Updates

The JLRC provides monthly appellate case law summaries to attorneys on issues related to dependency and termination of parental rights cases.

Resources and Education

In addition to regular case law updates, the JLRC has provided many written resources applicable to parent representation via its e-mail listserv and website. For example, the JLRC has published a *Fact Sheet Concerning the Release of Parent Client Information to DHS*, and a fact sheet which addresses *Making Domestic Violence Services Available to Parents Battling Substance Abuse*. The JLRC has published issue briefs on such topics as: *Recent Case Law on Expert Testimonial Diagnosis of Child Sexual Abuse in the Absence of Physical Evidence*; *Ethical Parent Representation*; recent Ninth Circuit case law on the rights of parents; *Using Harm of Removal and Placement to Advocate for Parents*; and the *Admissibility of Parent Capacity Evaluations*.

Additionally, the JLRC has included many

materials and resource tools from outside sources on its website, for the benefit of clients, attorneys, judges, and other juvenile court practitioners. These resources include, for example, materials prepared by the Oregon Child Advocacy Center, directories of programs and services, research results, reference tools, standards of practice, and guides to specific legal issues.

The Family Guide

A big accomplishment of the JLRC has been the development of *A Family's Guide to the Child Welfare System*. This guide, adapted for Oregon Juvenile court cases, was written for the benefit of parent clients in juvenile dependency proceedings. It was designed to help parent clients better understand how the child welfare and juvenile court systems work, to inform parent clients of their rights and responsibilities, and to help parent clients become involved and feel empowered. Over 200 copies of this user-friendly guide, which includes a calendaring device and tools to keep track of important information, have been distributed to attorneys across Oregon to give to their clients.

Email Updates

Over the past year, the JLRC issued regular e-mails to its listserv, including, among other things, new resources, announcements for upcoming events, and links to timely and relevant materials. In addition to

the many case law updates, issue briefs, and practice guides prepared or provided by the JLRC, the JLRC website hosts links to legal research sources for parents' attorneys.

Training

In the fall of 2009, the JLRC joined the Juvenile Court Improvement Project for its annual Juvenile Law "Road Show," and trained numerous juvenile court practitioners in 10 Oregon cities. This training focused on what parents' attorneys can learn from their clients, how parents' attorneys should use the Oregon Safety Model to advocate for their clients, attachment theory and the trauma of removal, the admissibility of parenting capacity evaluations, and recent appellate case law.

In the fall of 2010, the JLRC focused on practical skills, providing a 2-day training for twenty-five new parents' attorneys. The training covered such practical skills as maintaining the attorney-client relationship, client interviewing, preparing clients for direct examination, and learning how to cross-examine a psychological expert.

Future Work of the JLRC

The JLRC remains committed to enhancing the representation of parent clients in child welfare dependency proceedings in Oregon

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Juvenile Law Resource Center

« *Progress Report continued from previous page*

by providing case support, written resources, education, and training. We look forward to the challenges and accomplishments that the next year will bring, and we thank you for your support!

*If you do not currently subscribe to our e-mail list and would like to start receiving our regular e-mails, please contact us at: jlrc@jrplaw.org. ●

Fact Sheet on Child Support in Dependency Cases

Answers to questions dependency attorneys often have about the child support obligations of parents are addressed in a Fact Sheet developed by JRP Law Clerk, Rochelle Martinsson. The Fact Sheet answers questions such as:

- How are child support obligations established and how does my client contest a child support order?
- What is my client's child support

obligation while his/her child is in DHS custody?

- How much will my client have to pay? What if this amount is unreasonable?
- The child in DHS custody has special needs. Will my client have to pay more in child support?
- The child was removed because my client was the victim of domestic violence. Is my client still required to pay child support?
- My client is unwilling or unable to pay DHS. How will this affect my client's ability to have her children returned?
- My client's parental rights have been terminated / relinquished. Does he/she still have to pay? What about his/her past-due obligation?
- What if payment of child support is a barrier to reunification?

JRP appreciates the edits and suggestions for this Fact Sheet from Assistant Attorney General Jean Fogarty and Tony Nelson, Manager, State Recovery Centralized Unit.

To see the full Fact Sheet go to: www.jrplaw.org/documents/childsupfaqsheet.pdf ●

Learn more about who we are and what we do at:
www.youthrightsjustice.org

JLRC Case Summaries

Dept. of Human Services v. J.G., 239 Or App 261, 244 P3d 385 (December 1, 2010) (Ortega, J.) (Multnomah Co.)

Appeal from review hearing dismissed as moot in light of subsequent permanency judgment.

<http://www.publications.ojd.state.or.us/A145348.htm>

This case is an appeal from a review hearing judgment. Appellant, one of five siblings, appealed from the juvenile court's order continuing his siblings in foster care. He had been returned home at an earlier hearing. After the review hearing, and before the appellate court could act, a permanency hearing was held. The trial court again made the requisite findings to continue the four siblings in foster care. Thus, according to the Court of Appeals, the case was moot. The court distinguished the case from one in which the review hearing came after permanency hearing. *State ex rel Juv. Dept. v. L. V.*, 219 Or App 207, 215, 182 P3d 866 (2008). In that case, the court

rejected a mootness argument, holding that the permanency judgment and the choice of permanent plan continued to have a practical effect on the parties, and that the subsequent review order simply continued the status quo.

Dept. of Human Services v. J.S., 239 Or App 594, ___ P3d ___ (December 15, 2010) (per curiam) (Lane Co.)

Permanency judgment affirmed.

<http://www.publications.ojd.state.or.us/A145978.htm>

Mother appealed a permanency hearing judgment that was entered without the statutorily required findings. The State conceded error and argued that the case should be reversed and remanded for entry of findings. Mother objected to the remand because a permanency judgment must be entered within 20 days of the hearing, and because permitting remand would mean that the judgment would be entered after the deadline. The court rejected mother's argument, stating that "[i]t is undisputed that the permanency judgment in this case was entered within the 20-day period. The timeliness of the judgment therefore is not at issue in this appeal."

Juvenile Law Resource Center

Dept. of Human Services v. J.W., 239 Or App 596, ___ P3d ___ (December 15, 2010) (per curiam) (Crook Co.)

Permanency judgment reversed and remanded.

<http://www.publications.ojd.state.or.us/A146142.htm>

Father appealed a permanency judgment, making the same arguments as mother made in J.S. (See above.) As the Court of Appeals stated, father's reasoning was that, under ORS 419B.476(5), the juvenile court must enter the permanency judgment within 20 days of the permanency hearing, and if the appellate court were to remand to permit the juvenile court to make the required findings now, the appellate court would effectively be allowing the juvenile court to enter judgment well after the 20-day deadline." As it did in J.S., the Court of Appeals rejected the argument. Although the timeliness of the judgment was not at issue, the Court reversed and remanded the case.

Dept. of Human Services v. S.T., WL 5368869, ___ P3d ___ (December 29, 2010) (Ortega,

J.) (Linn Co.)

Permanency judgment affirmed.

<http://www.publications.ojd.state.or.us/A144243.htm>

Mother appealed a permanency judgment, arguing that the juvenile court erred by approving a plan of adoption that was contingent on the adoption being "open," and by changing the plan to adoption instead of to guardianship. At the permanency hearing, testimony from the child's caseworker and therapist, as well as from a psychologist who had evaluated the child, indicated that permanency was "paramount," but also that the child would suffer emotional harm from losing contact with his mother. Accordingly, the juvenile court found that an open adoption would be the best outcome for the child, and that if an open adoption were not possible, another permanency hearing would be required. The Court of Appeals affirmed.

On appeal, mother argued that the juvenile court could not have ordered a plan of open adoption, because an "open adoption" is not an available permanency plan under the applicable statute. The Court of Appeals responded that the juvenile court had not, in fact, done so, but rather had simply ordered a plan of adoption, and found that an open adoption would best meet the child's needs, both of which were within the court's authority.

Mother also argued that the permanency plan should have been changed to guardianship rather than adoption, because the plan of adoption would not guarantee ongoing contact between the child and mother. The Court of Appeals cited evidence in the record of the likelihood that the child's current foster parents would adopt the child, as well as agree to continuing contact. While acknowledging that there was no guarantee that the child's current foster parents would ultimately adopt the child, or that an open adoption would be accomplished, the Court stated:

Any time a court approves a permanency plan, it necessarily makes predictions, based on a preponderance of the evidence before it, about the availability and capacity of potential caregivers . . . to meet the child's needs. Finding that an open adoption is likely and will best meet a child's needs, as the court did here, is a predictive finding of a similar type. Based on its findings, the juvenile court did not err in changing the permanency plan to adoption.

Dept. of Human Services v. W.F., ___ Or App ___, ___ P3d ___ (January 19, 2011) (Armstrong, J.) (Hood River Co.)
Permanency judgment reversed.

<http://www.publications.ojd.state.or.us/A145459.htm>

Upon appeal of a permanency judgment, father raised several challenges, one of which was that the trial court had erred in failing to include in the judgment the determinations required by ORS 419B.476(2)(b) and (c). The Court of Appeals agreed, finding that because the plan in effect at the time of the hearing was adoption, the trial court should have included in the judgment determinations as to reasonable efforts made by DHS to place the child, as well as whether DHS had considered permanent placement options for the child.

The state argued that the trial court had satisfied the requirements of ORS 419B.476 by incorporating into the permanency judgment the Permanency Court Report. However, the Court of Appeals found that the permanency judgment referred to and incorporated that report only insofar as it related to DHS' "active efforts to make it possible for the ward to safely return home," and that it did not satisfy the statutory requirement that the judgment describe DHS' reasonable efforts to implement the plan of adoption. ●



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The Problem of Sibling Separation in the Child Welfare System

An Extra Punishment, a Separate Loss and Another Pain That is Not Needed

By Nate Salazar, Social Work Intern

Sibling relationships are of the most significant, meaningful and sustainable relationships any one person will have throughout their lifetime. The significance of the sibling relationship for children who are involved in the foster care system is even more pronounced and is accountable for a thin line that determines both adverse and positive outcomes for foster care children. This discussion will examine the magnitude of siblings in foster care, the importance of maintaining sibling relationships while children are in foster care, and Oregon statutes and policies related to siblings in foster care.

Children in foster care are one of the most vulnerable populations in the United States. On September 30, 2006, it was estimated that there were 510,000 children in foster care. For that same year there were 303,000 new entries into the foster care system

(Child Welfare Information Gateway, 2006) (Child Information Gateway, 2006). Also in 2006, the state of Oregon reported that 16,142 children were served in all foster care arrangements, which include: foster homes, group homes, and treatment facilities (Oregon DHS, 2006).

Statistics indicate that between 56% and 85% of children in foster care have siblings who are also in foster care (between 280,000 and 425,000 children) and that 75% of siblings are separated from each other once placed in foster care (Miller, 2006). Unfortunately, siblings separated in foster care are rarely re-united (Miller, 2006).

Being removed from their home and placed in foster care is a stressful and traumatic experience for any child. Many of the children in foster care have suffered some form of serious abuse or neglect prior to their placement in foster care. Sibling placement in foster care with one another is crucial to the emotional, mental and social/relational development of children into adulthood. Placing siblings together in foster care can prevent more traumas often experienced in the foster care system. About 30 percent of children in foster care have serious emotional, behavioral, or developmental problems. Generally, siblings placed together are less likely to experience placement disruption than siblings who were not placed together. Thorpe and Swart demonstrated that children separated from their siblings experienced a greater number of placements over time than children who remained placed with their siblings. Further, having experienced fewer adverse outcomes due to placement with siblings while in foster care

leads to positive permanency outcomes.

For children entering foster care, being placed with siblings can enhance their sense of safety and well being. They are not burdened with concern of where their siblings are and whether they are safe. Siblings provide natural support to each other and a sense of stability and belonging in unfamiliar and new environments. Furthermore, siblings are often the only connection children have to their families of origin. Continuity of sibling relationships assists children in maintaining a positive sense of identity and knowledge of their cultural, personal and family histories. Separation deprives siblings from developing a relationship that could offer them significant support over the course of their lives (Child Welfare Information Gateway, 2006). In particular, older siblings, provide critical support for their brothers and sisters. The encouragement of an older sibling is associated with higher perceived self-competence and better outcomes for younger siblings by serving as mentors for younger siblings. This mentorship passes on positive traits such as educational success, a healthy social life, and an ability to refrain from risky behavior (Tucker, 2001).

Legislation and Policies

Oregon is one of only a few states that require the juvenile court to consider placement of siblings together. ORS 419B.192 (2) provides that if a child, who needs to be placed in foster care has a sibling in care, the Department of Human Services (DHS) must make diligent efforts to place the siblings together and must report to the

juvenile court the efforts made to effect co-placement. DHS may be excused from co-placement if the juvenile court finds that placement of the siblings together is not in the best interests of one of the siblings. ORS 419B.337 (3) also provides that the juvenile court may make an order regarding visitation of siblings separated in foster care. Lastly, in reviewing cases of children in foster care, the juvenile court is required by ORS 419B.449 (3)(c) to make findings about the number of sibling visits there have been and whether the frequency of the sibling visits is in the best interests of the children.

DHS policies also make sibling visitation a priority for caseworkers. Every child who is separated from sibling(s) must have a sibling contact plan which ensures that sibling relationships are maintained even if the children are in separate homes (Oregon DHS Internal Policies, 2000), granting siblings the right to visit/contact each other while in separate placements.

OAR 413-070-0800 – 413-070-0880 establish guidelines for quality contact between children in substitute care, their families, and other people with whom they have a significant connection which: 1) supports and develops the child's relationships with significant others, including siblings; 2) reduces the potential harm to the child associated with separation from primary attachment figures.; and 3) assures that the paramount concern in developing a child-family contact plan is in the child's health, safety, and best interest.

More specifically in OAR 413-070-0820

Continued on next page »

« *Sibling Separation continued from previous page*

DHS recognizes:

- the importance of family bonds and maintaining relationships when children are cared for out of their homes;
- that the primary consideration in plans for child-family contacts is promoting the child's safety, well-being, and sense of permanence and continuity;
- that immediate and regular child-family contact after the child's removal from the home may reduce the child's trauma and the family's anxiety;
- that frequent, consistent, and quality contact between child(ren) (siblings) and members of their family promotes attachment, and
- that the frequency of child-family contact should meet the individual, developmental and attachment needs of the child(ren) (siblings).

Further, OAR 413-070-0820 provides that:

- Children, their parent(s), and their sibling(s) have a right to visit each other while the child(ren) is in substitute care;
 - Children, their parent(s), and their sibling(s) have a right to visit as is reasonably necessary to maintain and enhance their attachment to each other, and;
 - Facts considered in determining scope and effect of visits include, but are not limited to the child's health, safety, development, and attachment needs.

- When DHS resources alone cannot meet the child's family contact needs, the worker should solicit help from family and community resources, and
- Oregon DHS shall prohibit a visit if:
 - There is reason to believe that the visit would jeopardize the child's emotional or physical safety; or
 - a court order prohibits visits.

Factors associated with separating siblings are mostly pragmatic, which often include recruiting appropriate foster homes to meet the specific, cultural/ethnic, behavioral, and developmental needs of the children (Smith, 1996).

Despite DHS and the juvenile courts' efforts at keeping sibling groups intact or maintaining sibling group contact, it has not been enough. The majority of sibling groups are not placed together, and often contact between siblings is not facilitated. Taking into account national and Oregon state statistics, policies and court recognition is not enough to protect sibling rights to maintain relationships (Miller, 2006). There are two possible reasons policies fail to maintain sibling relationships. First, policies and statutes do not provide enough guidance for decisions regarding sibling separation. Second, policies and statutes are not influential enough to overcome long-held beliefs and attitudes about sibling relationships. The Youth Leadership Advisory Team described separation from siblings entering foster care as being, "like an extra punishment, a separate loss, and another pain that is not needed" (Child Welfare Information Gateway, 2006). ●

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Foster Children and Their Relatives

The State Makes an Overcorrection

Commentary by Mark McKechnie, Executive Director

The Oregon Department of Human Services (DHS), like other state child welfare agencies, faces a monumental task of protecting children, keeping families intact when possible, and making a number of decisions in each case that will profoundly affect the lives of children and their kin for years and generations into the future.

While there are bound to be flaws in such systems, we would like to think that the system will evolve, however slowly, in a positive direction. Unfortunately, we have been reminded once again that the system is always capable of taking giant strides backwards.

The state had made much progress in recent years in achieving a more balanced approach toward working with blood and legal relatives of Oregon foster children. Recent policy changes made by DHS demonstrate, however, that the agency can fall back into rigid practices which fail to recognize the complexity of families' lives, even when they appear to have the best of intentions. After so many years of neglecting the importance of relatives in the lives of foster children, DHS has made a sharp turn in policy direction that chooses relatives as adoptive resources for children, even in cases when such choices may not be consistent with a child's safety or attachment needs.

While the agency had often failed to consider the importance of siblings, grandparents and other relatives in the lives of foster children, new rules on permanency and adoption fail to consider cases when a child's attachment and other needs might be best met by a caregiver who is not a relative. We have posted our comments to the new rules on our web site: <http://www.jrplaw.org/Documents/Adoptionrules.pdf>

We have no doubt that there are far more children who should be placed in the care of their blood and legal relatives, either temporarily or permanently. It is clearly

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important to focus attention and efforts toward maintaining and rebuilding extended family relationships for children in foster care.

Beginning nearly two decades ago, Oregon's child welfare officials made serious attempts to establish a system in which it would base decisions upon the individual circumstances and needs of children and families. A settlement between our organization and the State led to planning and decision-making that was driven

by the "strengths and needs" of children and their families. Case workers and other child welfare officials were starting to become more open to the importance of grandparents, aunts, uncles and other relatives in the lives of foster children, as well.

In addition to legal and philosophical barriers to placing foster children with their relatives, there were financial barriers as well. In 1989, after being appointed to represent

a young girl whose aunt and uncle were denied foster care payments on her behalf, our attorneys filed a federal court class action

Foster Children, Relative Placements and Permanency in Context

	2005	2009
Children in Foster Care on an Average Daily Basis	7,497	8,617
Percent of Children in Family Foster Care Placed with Relatives	30%	26.9%

Number of Children Who Exited Foster Care	5,037	4,674
Percentage of Children who Exited who:		
Reunified with Parents	64%	58.1%
Were adopted	20%	23.5%
Entered guardianship	2%	5.9%
Emancipated	4%	5.4%
Lived with relative	1%	0.7%
Other	9%	6.4%

Children Adopted	1,033	1,104
Percent adopted by relative	39.7%	34.6%
Percent adopted by non-relative foster parent	32.9%	43.2%
Percent adopted by other non-relative	27.4%	22.2%

challenging the constitutionality of Oregon laws which excluded blood and legal relatives from the definition of "foster parents." While relatives were still allowed to serve as foster parents, the law prevented many of them from receiving financial support from the state to help meet the basic material needs of children in their care. After an initial loss in the district court, a victory before a panel of the Ninth Circuit and then a disheartening decision by the court en

banc, we were back to square one.

The rules favor relatives in every case when a relative is potentially available for adoption. In circumstances when a child has a long-standing relationship and strong bond to his or her foster parent, the rule does not take into account the number of years that the child has lived with the foster parent. It does not take into account the wishes of the child. It does not take into account the opinion of professionals who evaluate children in order to determine their individual needs.

Thereafter, in virtually every session of the legislature, we advocated for a change in the law. That change was eventually made in 2007 with the passage of SB 282 which eliminated the legal distinction between foster parents who were relatives and those who were not. SB 282 was written by JRP lawyers, who also drafted and advocated for SB 414, which required DHS to make "diligent efforts" to place children with their relatives as early as possible. After SB 282 was fully implemented in 2008, relative foster parents finally began to enjoy the same

support that other foster parents received.

In spite of legislative changes and other efforts, the rate at which foster children are placed with their blood and legal relatives has stubbornly remained in the low 30% range for several years. (See chart.)

Perhaps motivated by these numbers, and no doubt with the best of intentions, DHS has made what we view as an overcorrection, rigidly preferring relatives to others, where in the past, just the opposite was the case. Unfortunately, the new rules chart a course for making a new set of mistakes which may be no better for some children and families than the old mistakes.

Oregon DHS has had and continues to retain the authority to select an adoptive family for children when the court-approved plan is for a child to be adopted. DHS exercises this authority through the use of local and state adoption committees, and appeals are decided by DHS administrators. DHS retains exclusive decision-making authority in this process, under both the old and new rules.

The new rules are a one-size-fits-all approach that prevents the agency from even considering a foster parent to adopt a child in his or her care as long as there is a relative somewhere in the world who *might* consider adopting the child and who the agency *might* determine to be suitable. The rule creates an irrebuttable presumption in favor of relatives, including those that the child has never met, while excluding foster parents with whom the child may have lived for his or her entire life.

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« Foster Children continued from previous page

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To their credit, DHS has indicated its intent to further amend the rules to include an exception process in the selection of the adoptive resource. The additional rules have not yet been released. Without a meaningful exception process, the new administrative rules adopted at the end of 2010 could be a virtually impenetrable barrier to achieving the best long-term outcomes for some of Oregon's most vulnerable children.

When DHS engages in such a dramatic overcorrection in response to past mistakes, we should know that it is only a matter of time before the pendulum swings back in the opposite direction. As of today, we don't know how long that will take, but we hope that the next change results in a more balanced and reasonable policy. ●



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Case Summaries

Summarized by **Rochelle Martinson,**
Law Clerk

State v. E.V., 240 Or App 298, ___ P3d ___ (December 29, 2010).

[http://www.publications.ojd.state.or.us/
A142191.htm](http://www.publications.ojd.state.or.us/A142191.htm)

Youth appealed a juvenile court judgment ordering him to pay restitution to an insurance carrier and the Criminal Injuries Compensation Account (CICA), arguing insurance carriers and the account are not "victims" for the purposes of the juvenile restitution statute (ORS 419C.450). The Court of Appeals rejected youth's argument and affirmed the restitution order.

Noting that the juvenile restitution statute does not define either "victim" or "restitution," the Court relied on the definition of "restitution" in the juvenile code, which provides that, unless the context of a particular provision requires otherwise, that term has the meaning given to it in ORS 137.103 (i.e., the criminal code). The Court then found that, under the criminal code, a "victim" to whom "restitution" may be awarded includes both insurance carriers and the CICA. The Court concluded that the legislature had intended to incorporate into the Juvenile Code the definition

of "restitution" contained in the criminal code, along with the statutory definitions of its component parts, including "victim."

The Court disagreed with youth that the term "victim" has a different meaning under the juvenile restitution statute, explaining that the language in that provision referring to a "person" who has suffered "any physical, emotional, or psychological injury or any loss of or damage to property" creates a condition precedent to an award of restitution, not a special definition of "victim" for purposes of that provision. Accordingly, if the condition precedent is satisfied, a juvenile court can award restitution to a "victim," as defined by ORS 137.103(4), which includes both insurance carriers and the CJICA.

State ex rel Juv. Dept. v. N.L.D., 240 Or App 132, ___ P3d ___ (December 29, 2010).

[http://www.publications.ojd.state.or.us/
A140269.htm](http://www.publications.ojd.state.or.us/A140269.htm)

Youth appealed a juvenile court judgment ordering him to pay restitution to an insurance carrier and the Criminal Injuries Compensation Account (CICA), asserting several arguments. The Court of Appeals rejected youth's primary contention that the account is not a "victim" for purposes of the juvenile restitution statute (ORS 419C.450), finding *State v. E.V.* to be dispositive on that

issue.

The Court also rejected, as not preserved for appeal, youth's argument that the Juvenile Code does not provide for orders of restitution paid to the account, because the statute setting forth the relevant procedure (ORS chapter 147) is not incorporated into the Juvenile Code under ORS 419C.270. Finally, the Court rejected youth's argument, contained in his reply brief, that the juvenile court had committed plain error by ordering him to pay restitution to the account. Noting that it generally does not consider arguments raised for the first time in a reply brief, the Court commented that, even if it were to consider youth's assertion, it would conclude that the alleged error was not "plain" (citing *State ex rel DHS v. M. A.*).

Finding that the juvenile court did not err in ordering youth to pay restitution to the CICA, the Court affirmed the restitution order. ●



"Injustice anywhere is a threat to justice everywhere."

— *Martin Luther King, Jr.*

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and what we do at:
www.youthrightsjustice.org

Case Summaries

Summarized by YRJ Staff

State v. Kelley, 239 Or App 266, 243 P3d 1159 (December 1, 2010).

<http://www.publications.ojd.state.or.us/A137379.htm>

Defendant appealed his convictions for eight counts each of first-degree sexual abuse and first-degree sodomy, arguing the trial court had erred in denying his motion for judgment of acquittal on all counts. Defendant alleged that the state's case against him had rested on self-incriminating statements that constituted confessions, and that because the state had failed to corroborate those confessions with evidence, the confessions could not serve as a basis for conviction. Agreeing that defendant's statements were uncorroborated confessions, the Court of Appeals reversed.

The statements at issue included those that defendant had made to a friend, during a men's group counseling session, and at a parole meeting. At trial, the state presented testimony as to those statements from the friend, counselor, and parole officer to whom defendant had spoken as well as evidence concerning the two children who defendant had allegedly sexually abused, including testimony by the supervising DHS

caseworker. At the conclusion of the state's case, defendant moved for a judgment of acquittal, arguing that his statements were uncorroborated confessions and as such, could not support convictions under ORS 136.425, which provides that a confession alone is not sufficient to warrant a conviction without corroborating evidence. The trial court denied the motion, finding that all of the statements at issue had been made for reasons other than to indicate that defendant had committed a crime.

Relying on *State v. Mizzy*, 190 Or App 306, 320 (2003), *rev den*, 336 Or 422 (2004), the Court of Appeals agreed with defendant that "if his statements were made for the purpose of acknowledging that he was guilty of criminal conduct, it is irrelevant that he may have had other purposes that motivated him to acknowledge his guilt." Accordingly, the court went on to "consider each of defendant's statements to determine whether acknowledging guilt was at least in part his purpose."

The Court found that it was reasonable to infer that at least two of the statements that defendant had made to his friend were for the purpose of acknowledging that he was guilty of sexually abusing the children, and that the other statements were at least so closely related that they must be considered to have been part of the confession as well.

Regarding the statements that defendant made during the counseling session, the Court found it to be immaterial whether his principle reason for making those statements was for something other than to acknowledge guilt, or other than to instigate

a criminal investigation or prosecution. The Court explained that a defendant need not be so motivated in order for his statements to be a confession within the meaning of ORS 136.425.

Regarding the statements that defendant made at his parole meeting, the Court noted that the state had "all but concede[d]" that those statements constituted a confession, and found that in light of the Court's previous determinations as to the purpose of the other statements, the statements defendant made at his parole meeting constituted a confession. Finally, the court found that the state's corroborating evidence was insufficient to support defendant's convictions, and that the trial court erred in denying defendant's motion for judgment of acquittal.

United States v. Johnson, 626 F3d 1085 (9th Cir. 11/29/10)

Defendant Johnson appealed conditions of release, imposed as a result of a guilty plea to distribution of cocaine. The conditions prohibited him from wearing or displaying clothing or other articles or using gestures that evidenced affiliation with the Rollin' 30's gang and a condition that he could not associate with anyone known to him to be a Rollin' 30's gang member nor with persons associated with the gang. On appeal Johnson contended that the conditions are vague and overly broad, in violation of due process and the First Amendment. The 9th Circuit

rejected Johnson's contentions as to the restriction on wearing or displaying gang insignia and association with gang members, but found the restriction on associating with persons associated with the Rollin' 30's gang "crosses the line". The Court found that "[t]here is a considerable difference, however, between forbidding a defendant from associating with gang members and precluding him from associating with *persons who associate with* gang members. The latter proscription is impermissibly vague and entails a deprivation of liberty that is greater than necessary to achieve the goal of preventing Johnson from reverting to his previous criminal lifestyle." Such a condition sweeps too broadly because it encompasses not only those who are involved in gang activity, but also those who may only have a social connection, such as a family member or employer.

Costanich v. DSHS, 627 F3d 1101 (9th Cir. 12/3/10)

Washington State revoked Costanich's foster care license and sought to terminate the dependency guardianship of three of the six children in Costanich's home, based on an investigation by DSHS which purportedly revealed emotional abuse of the children. An administrative law judge found fundamental inaccuracies in the investigation and reversed the license revocation. The reversal was upheld by the Washington Court of Appeals.

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« Case Summaries continued from previous page

Asserting that the DSHS worker had fabricated evidence in her reports, Costanich filed a Section 1983 claim against the individual social worker/investigator and DSHS for deprivation of her due process rights to her foster care license and guardianship of her dependents. The federal district court granted summary judgment in favor of the DSHS personnel on the basis of absolute and qualified immunity.

On appeal, the 9th Circuit agreed that deliberately fabricating evidence in civil child abuse proceedings would violate the Due Process Clause of the Fourteenth Amendment, but ruled that in this case, the social worker was still entitled to qualified immunity because there was not a clearly established right protecting a foster parent from evidence fabricated by a social worker prior to this case given that the challenged conduct occurred in 2001. Finding the issue was not properly before it, the 9th Circuit declined to decide whether a Washington foster parent in fact has a protected liberty interest in a foster care license such that deliberately fabricating evidence in child abuse proceedings would violate the foster parent's due process rights. ●



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Save the Date

National Conference on Juvenile and Family Law

National Council of Juvenile and Family Court Judges

March 27-30, 2011, Reno, Nevada
Info: [http://www.ncjfcj.org/content/
view/1313/315/](http://www.ncjfcj.org/content/view/1313/315/)

The conference will feature innovations in programming and practice and provide new opportunities for courts and communities to improve outcomes for children, youth, families, and victims. Diverse educational sessions will focus on the challenges faced by many children and families, such as child abuse and neglect, mental health, delinquency, custody, immigration, domestic violence, and substance abuse.

Juvenile Law Seminar

Oregon Criminal defense Lawyers Association

April 15-16, 2011, Newport, Oregon
Info: [http://www.ocdla.org/seminars/
shop-seminar-index.shtml](http://www.ocdla.org/seminars/shop-seminar-index.shtml)

The seminar will take an in depth look at **adolescent sexual behavior in both delinquency and dependency cases in juvenile court**. It starts with a discussion of normal v. deviant behavior among

juveniles, continues with an analysis of treatment and other services available for youth in the dependency system, and offers concrete suggestions for avoiding delinquency jurisdiction. Some cases have to be tried, though, and renowned Oregon litigator **Lisa Maxfield** will share techniques and insights into the cross-examination of child complainants in these cases. **Dr. Orin Bolstad** will cover what happens after an adjudication and how to protect your client in treatment. Expungements and relief from registration follow, along with updates on the case law and what's happening in the legislature as well as a presentation on how new research and developing case law are affecting our understanding of legal responsibility and appropriate punishment for youthful offenders.

Indian Child Welfare Act Conference

April 29, 2011, McMinnville, Oregon
Info: [Claudia.I.Errington@ojd.state.
or.us](mailto:Claudia.I.Errington@ojd.state.or.us)

The conference will cover ICWA background and history, jurisdictional provisions, procedural requirements, placement provisions, and barriers and successes with implementation.

Second National Parent Attorney Conference

National Project to Improve Representation of Parents Involved in the Child Welfare System

American Bar Association Center on Children and the Law

July 13-14, 2011, Pentagon City, VA
Info: lavernm@staff.abanet.org

Details will be available online soon.

34th National Child Welfare and Family Law Conference

National Association of Counsel for Children

August 30 thru September 1, 2011
Pre-Conference August 29, Hotel del Coronado, San Diego, California
Info: [http://www.naccchildlaw.
org/?page=National_Conference](http://www.naccchildlaw.org/?page=National_Conference)

NACC members will receive the full conference brochure in May. Online registration will also be available starting in May.

Training for Western Region Juvenile Defenders

Western Juvenile Defender Center (WJDC) in collaboration with the National Juvenile Defender (NJDC)

October 20, 2011

Sheraton Hotel, Seattle, Washington

The training will precede the NJDC Summit (10/21-23) and will be free for juvenile defenders from the Western Region, which

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is comprised of Alaska, Idaho, Montana, Nevada, Oregon, Washington and Wyoming. The goal of the training is to share information and resources and promote collaboration among juvenile defenders in our region. Speakers and panels will address: Advocating for Un-Shackling Youth in Juvenile Courts; Raising Competency and Restorative Services for Youth Unable to Aid and Assist, and Strategies for Waiver and Direct File Cases. A limited number of \$300 stipends will be available for juvenile attorneys who will attend. If you are interested in attending the training, please email Julie H. McFarlane at: julie@jrplaw.org and indicate whether you would be seeking a stipend. ●

General Resources

National Delinquency Summit in Seattle – Opportunities for Oregon Lawyers to Attend

The National Juvenile Defender Center (NJDC) will be holding its 2011 Summit in Seattle, Washington, October 21st to 22nd 2011. This preeminent continuing education for delinquency attorneys is by invitation only to representative defenders from each state. This year, however, because of the proximity of the Summit to Oregon, additional Oregon attorneys who express interest in attending the Summit may also

receive invitations. To view the type of material covered in the Summit, the Resource Guide from the 2009 Summit is available at: http://www.njdc.info/pdf/2008_resource_guide.pdf

The Western Juvenile Defender Center Advisory Board is also planning to offer a limited number of \$300 stipends to assist attorneys, particularly those from rural areas to attend the Summit and a special regional training that will be held on the afternoon of October 20th. Invitations and stipends will be going quickly. If you are interested in receiving an invitation to the Summit, please e-mail Julie McFarlane (Julie@jrplaw.org) as soon as possible. If you would also be requesting one of the stipends, please indicate that in your e-mail.

Good News for Juvenile Defenders!

Several recent policy briefs and research The National Juvenile Defender Center has agreed to host the ORJuvDefenders list – a list serve exclusively for Oregon lawyers representing youth in juvenile delinquency and criminal cases.

For the first time in Oregon there will be a list serve just for these attorneys, allowing them to pose and answer questions about cases, to communicate with each other regarding developments in juvenile justice policy and to share information and ideas for innovation. There is no cost and all juvenile defenders are welcome to participate. To join the list, contact Julie McFarlane at Julie@jrplaw.org. For more information, contact Julie or the National Juvenile De-

fender Center at 202-452-0010.

Answers to Questions About Juvenile Driving Suspensions

A useful resource for attorneys is the Oregon Suspension Guide, which includes a section on juvenile suspensions. Access the guide at:

http://www.oregon.gov/ODOT/DMV/docs/forms/Oregon_Suspension_Guide.pdf?ga=t

Important New Law Review Article

The Winter 2011 edition of the [U.C. Davis Journal of Juvenile Law & Policy](#) includes: [Breakdown in the Language Zone: The Prevalence of Language Impairments Among Juvenile and Adult Offenders and Why it Matters](#), 15 [U.C. Davis J. Juv. L. & Pol'y](#) 37. This article explores the research developed over eighty years that shows that “poor language skills are closely associated with the constellation of emotional and behavioral disturbances routinely seen in juvenile and criminal court. These include conduct disorder, academic deficits, social incompetence, impulsivity, and even aggression.” The authors lament the fact that the law has not acknowledged this body of social science, failing to use it in the administration of justice, rehabilitation, and public safety. Juvenile lawyers need this information and armed with this knowledge, need to start educating the juvenile courts and assure a fairer system for our many clients impaired by language disorders. ●

We Would Love to Hear From You

If you have any questions about who we are and what we do, please email Janeen Olsen at: JaneenO@jrplaw.org.



“Where, after all, do universal human rights begin? In small places, close to home—so close and so small they cannot be seen on any maps of the world. Yet they are the world of the individual person... Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world.”

– Eleanor Roosevelt

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November 12, 2011

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