

A Long Road Toward Reform: An Interview with John Boston, Director of the Prisoners' Rights Project of the New York City Legal Aid Society

by Todd Matthews

For New York City attorney John Boston, law school was a calling of sorts.

"I went to law school because legal work seemed to be a viable way to mitigate the abuses of oppressive institutions, of which the criminal justice system was and is a prime example," says Boston, who graduated from Vanderbilt University in the early-1970s, and moved to New York City in 1972 to attend law school at New York University. "I became involved in prisoners' rights work in law school for that reason."

After a brief post-university research job, he joined the Legal Aid Society, the nation's oldest and largest provider of legal services to the indigent. According to its Web site, the organization provides free legal assistance to New Yorkers who live at or below the poverty line, and otherwise could not afford an attorney. Boston has worked at Legal Aid for 32 years, and today serves as director of the Prisoners' Rights Project (PRP), where he supervises nine attorneys and three paralegals who advocate for prisoners' rights and legislative reform in New York jails and prisons.

Prison Legal News interviewed Boston, 59, to discuss the Legal Aid Society and PRP, his work on prisoners' rights issues, and some of the landmark cases that have crossed his desk.

When and why was the Prisoners' Rights Project (PRP) formed, and what is its relationship or connection to the Legal Aid Society in New York City?

The Prisoners' Rights Project is one of several "law reform units" of New York Legal Aid. It is presently part of the Civil Division of Legal Aid. It was initially formed as a branch of the Criminal Appeals Bureau of Legal Aid in 1971, with funding from the federal Law Enforcement Assistance Administration. Yes, that's right -- a Republican administration once handed out money to civil rights lawyers to sue prison officials to make them obey the law, understanding that that is part of law enforcement. I guess they've forgotten that.

When you look back at PRP's work over the past 35-plus years, which two or

three cases, decisions, or areas of reform would you consider to be 'landmark,' and how was PRP involved?

I think that our persistence and continuity may be the major landmark. We have been engaged with both the state prison and city jail systems and their prisoner populations throughout our existence. We know the institutions and their problems, and the prisoners know we are here. We are able to focus on issues over the time periods they require, which in New York are quite long given these systems' resistance to change. For example, we have been grappling with an entrenched culture of excessive force in the city jails for about 25 years, winning several class actions in particular institutions and seeing considerable success in reducing staff violence, but also learning that the system does not roll out reform; it quarantines it. So we have now brought and settled a system-wide class action about excessive force, which my colleagues have been laboriously monitoring for nearly two years, and we are seeing results: fewer serious injuries to prisoners, some improvement in internal investigations, more guards and supervisors charged for abuse and false reporting. It is only our ongoing institutional presence that has allowed us to get this far. In addition to use of force in the City jails, we have maintained an institutional presence with respect to medical and mental health care in the state prisons. When I came to the Prisoners' Rights Project in the 1970s, the first thing they gave me to do was to monitor compliance with the settlement in our case about Matteawan State Hospital, the "state hospital for the criminally insane," which was characterized by very little treatment and by serious abuses of restraint and seclusion. That notorious institution was replaced by a system supervised by the Office of Mental Health, with a very small in-patient facility, the expectation that prisoners with mental illness would be served on an out-patient basis in the prisons, and the result that large numbers of those prisoners wound up serving years and years in SHU because of acting out as a result of their

inadequately treated illnesses, often going around in a revolving door between SHU and the psychiatric hospital. After working with Prisoners' Legal Services of New York on a couple of cases about mental health care in the SHU's of some of the large maximum prisons, we realized the futility of that piecemeal approach, and just last year we (along with PLSNY and other collaborators) successfully settled statewide litigation for a large enhancement of mental health services including residential programs to create options other than general population, SHU, or hospital commitment, and a variety of means to try to keep people from being condemned to years of 23-hour lock-in because of their psychiatric symptoms. We have also brought a series of class actions about medical care—first, two at individual prisons, and then (as with mental health care), when we realized they did not result in system wide reform, a statewide challenge to the inadequacy of HIV care, which we have recently settled.

What area(s) of prison and jail reform need the most work, and are currently being pursued by PRP?

This varies from system to system. For example, in New York we don't have the problem of grotesque overcrowding that dominates every aspect of prison life in California, and which they have to deal with before they can solve any other problems. In New York City, the problems of staff physical abuse and the physical conditions of confinement are the ones we are presently most engaged with. There are also significant problems with medical care and mental health care, which at present we are addressing administratively and case by case. In New York State, there is a pretty horrendous problem of sexual abuse of women prisoners by male staff, about which we have brought statewide litigation (unfortunately receiving an adverse decision on exhaustion of administrative remedies and class certification, which we are seeking to overturn). There is also a long-standing problem of inadequate treatment for prisoners with mental illness. As mentioned, we have recently settled a statewide suit about mental

health issues and are monitoring a settlement with the hope of providing adequate treatment in general population and ending the concentration of prisoners with mental illness in 23-hour lock-in in SHU. For someone incarcerated in a New York City jail or New York State prison, under what circumstances would they seek out PRP for assistance? Any circumstances. We receive a steady stream of complaints and requests for assistance from prisoners about every aspect of institutional life, as well as criminal and parole matters. The large majority of these requests receive form responses accompanied by what we hope are useful do-it-yourself materials, since we lack the staff to assist more than a small fraction of those with legitimate problems. We try to identify the most serious ongoing problems and intervene administratively on behalf of the prisoners involved, but our efforts are a fraction of what I wish they could be.

In 1995, you co-authored and published (with Daniel E. Manville) the *Prisoners' Self-Help Litigation Manual*. What was the impetus for writing the book, and how did it help prisoners?

The impetus was the enormous need on the part of prisoners for accurate information they can understand about their legal rights and how to assert them. Dan Manville, who became a jailhouse lawyer in prison and then went to law school and became a lawyer and now is a clinical instructor, got me into the act with the second edition back in the 1980s. I hope it helps prisoners with valid legal claims formulate them so they don't get dismissed and then litigate them effectively enough to have a fair chance at getting relief, formally or informally. The present edition is grossly out of date, but we're plugging away on the next one.

What is the picture like for New York

State prisons and New York City jails? How many people are incarcerated in each (prisons / jails), and has that number increased in recent years?

There are about 64,000 prisoners in the New York State prison system and about 14,000 in the city jails. The state prison population has decreased by several thousand over the past several years, and the city jails have decreased by about a third from their peak in the early '90s. There has been a very large drop in crime rates in New York City (from which about two-thirds of the state prison population comes) and some very modest sentencing reform and improved behavior on the part of the parole board that account for these changes. 🐶

Todd Matthews is a freelance journalist based in Seattle, Washington. This

interview is part of an ongoing series of profiles on the unsung heroes and heroines of the prisoner rights movement who have dedicated their careers to advancing the human rights of the imprisoned.

**CALIFORNIA HABEAS HANDBOOK
5th Edition Now Shipping!**

A PRACTICAL GUIDE TO STATE AND FEDERAL HABEAS UNDER AEDPA

By Kent Russell, PLN Columnist ("Habeas Hints")

- Completely Revised: Autumn, 2006
- All-New Habeas Grounds Table
- Appx. w/ Actual Russell Documents

Cost = **\$39.99** for prisoners (others add \$10).

Send check or money order to:

Kent Russell (C.H.H.)

2299 Sutter Street

San Francisco, CA 94115

Website: RUSSELLHABEAS.COM

Foundation For Innocence LLC

P.O. Box 1033

Kula, Maui, Hawaii. 96790

Email: innocencehawaii2002@yahoo.com

Ph (808) 269-0452

Important Notice

Please note that Foundation For Innocence (FFI) has taken transfer of all case files and documents from Express Legal Services. Due to overwhelming requests for assistance from all those claiming innocence it is critical that FFI ensure files are opened for every person regarding their case.

FFI a small privately operated company is not supported by grants as most other innocent projects. Our staff is small but dedicated to assisting those in need. We are striving to complete this transfer by March, 2008 and greatly appreciate your patience during this transition. To all inmates that have either sent a completed assessment form to ELS or FFI or are awaiting assessment forms - you may forward a photograph of yourself and your family for your file.

Please limit to 2 pictures.

We thank you for your patience during this transition of processing your files.

Please note the new address above.



What you need to know about the Law

**Affordable Legal Assistant/Paralegal
Distance learning since 1890**

Free catalog.

www.blackstone.edu

Blackstone Career Institute

PO Box 3717

Allentown, PA 18106

800/826-9228