Landmark victory in federal lawsuit for pretrial detainees with mental illness

A settlement in the federal lawsuit brought by the Colorado Department of Human Services and the Colorado Mental Health Institute at Pueblo ensures that pretrial detainees who are mentally ill will receive evaluations and treatment within 28 days of their arrest. The lawsuit, filed in August 2011, alleged that pretrial detainees in Colorado suffered unconstitutional delays, in some cases lasting as long as six months, in receiving evaluations and treatment that would enable them to participate in their criminal proceedings. Frequently, the delay was longer than they would have otherwise been confined for their alleged offense. The lawsuit was supported by signed affidavits from Arapahoe County Sheriff J. Grayson Robinson and the Colorado State Public Defender, Douglas K. Wilson. In his affidavit, Sheriff Robinson noted that his jail does not have the medical professionals needed to evaluate, treat, and care for individuals with mental illness. As jail staff cannot provide psychiatric medication, hospitalization involuntarily, their psychological condition often deteriorates rapidly and with it their behavior. Robinson stated: “It is not uncommon for mentally ill detainees to commit crimes or violate facility conduct rules because of their inability to conform their behavior to the requirements of a secure detention facility.”

This landmark 10-year settlement is the first of its kind in the United States. Under the terms of the agreement:

- The Department of Human Services is required to admit a pretrial detainee to the Colorado Mental Health Institute at Pueblo within 28 days of the court determining the need for an evaluation or reevaluation treatment.
- The Department is required to maintain a monthly average of no more than 24 days for all patients admitted to the Mental Health Institute for evaluation or treatment.
- Competency evaluations performed in county jails must be completed within 30 days.
- For the 10-year duration of the agreement, the Department must provide monthly reports to The Legal Center to ensure the Department and the Department have agreed to work together to educate the state judiciary, district attorneys, defense attorneys, and county sheriffs to help ensure timely evaluation and treatment of the mentally ill pretrial detainees with mental illness.
- The Legal Center’s legal team consisted of Iris Eytan, Jason M. Lynch, Calch Darling, and Ellie Lockwood of Reilly Pozner LLP, and Marcus Lock of Wilderson Lock & Hill, LLC, and Mark Frandick and Randy Chapman of The Legal Center.

“I’m pleased that once the suit was filed, the Department acknowledged the problem, accepted responsibility for fixing it, and began working with our team to identify a holistic solution that will result in the state’s mentally ill pretrial detainees being evaluated and treated more quickly,” Marcus Lock said.

“In our view, the Department has been struggling with this problem for years. So we are especially gratified to have reached a long-term agreement,” said Iris Eytan, adding that, “The Department has agreed to a comprehensive framework that will govern the provision of competency evaluations and re-evaluation treatment for years to come.”

“All of us at The Legal Center look forward to working with the Department to end the human suffering and financial toll caused by chronic delays in evaluating mentally ill defendants and those found incompetent to stand trial,” said Director of Legal Services Randy Chapman.

The Legal Center is most grateful to the law firms providing pro bono legal services in this case. Reilly Pozner is a full-service litigation firm handling high profile cases in more than 40 states. Bratton Hill Wilderson & Lock are a full service law firm in Western Colorado and handles transactional, litigation, and water matters across the state. Both firms believe they have a responsibility to provide pro bono legal services to those in need and devote substantial resources to individual and major broad-based legal cases.
For the eighth year in a row, The Legal Center’s VOTE! Program testified to the Colorado legislature regarding our concerns about requiring government-issued photo identification for voting purposes. We believe that requiring such identification will effectively disfranchise thousands of citizens. The number of citizens with disabilities, particularly elders and people who are homebound, is quite large. According to the Brennan Center for Justice report, Voting Law Change Log, in 2012, 26 percent of all American citizens (more than 21 million) do not possess a government-issued photo ID. People without ID are more likely to be older or younger citizens, from a minority group, or poor.

Supporters of requiring government-issued photo ID claim that there is extensive voter fraud in elections, in Colorado and the country there have been very few examples of fraud and even fewer convictions for voter impersonation. According to the National Republican Lawyers Association, there has been just one conviction for voter impersonation in the past ten years. Supporters also claim that it is extremely easy to get a photo ID from the Colorado Department of Revenue, Motor Vehicles (DMV) and note that this is free of charge for senior citizens and low-income residents. For others, the fee for a Colorado photo ID is $15.50. Provisions in Colorado law do provide for a free photo ID for applicants who are at least 60 years old, or are referred to the Colorado Depart- ment of human services or by the Colorado Department of Corrections, Division of Motor Vehicle/Corrections or a county jail. But the real barriers to obtaining photo ID occur are not the $15.50 fee. Applicants must appear in person at the DMV and prove the identity document, legal name, evidence of lawful presence in the United States and proof of residential address. Many people do not have certified copies of their birth certificates and do not have the required photo ID to obtain one. The cost of obtaining these documents varies across the states, ranging from $15-$40.

Important Information Regarding the 2012 Election Calendar The primary election will be held on June 26. Approximately 75 percent of Colorado county courthouses will be holding an all-mail primary. They are required to have voter service centers where voters may obtain replacement ballots or turn in their unmarked mail-in ballot in order to vote. You must also be using a voting machine. You do not have to be a person with a disability to vote in a voting machine. May 29 is the last day to register for the primary election. For a vote in a party’s primary, you must be a registered voter and affiliated with the political party. Unaffiliated voters may file and vote in a primary. This can be done online at www.govotecolorado.com or at a polling place or voter center service center until 7:00 p.m. on the day of the election.

Elders who were born at home may not have been issued a birth certificate. Individuals with disabilities who were abandoned by their families to institutions may not have ready access to birth certificates or similar documents. Sometimes these records have been destroyed in floods, fires or other disasters. Sometimes there is not a match of the person’s name to the name on their documentation. In those cases, a legal name change must occur which can take between 3-6 months and cost more than $200. Young people under the age of 21 may only have a birth certificate and none of the other required documentation. The process is extremely difficult for low-income youth with disabilities whose families may not have the resources to assist them with navigating the barriers. Individuals who are homebound generally do not have a safe place to store their ID and supporting documents and are at risk for losing them or having them stolen. These are just a few of the problems that face people in their attempts to obtain ID.

Because of these significant barriers, the Collaborative ID Project was created in 2003 to find the required documentation to obtain their ID. The project is made up of the Colorado Coalition for the Homeless, Denver Department of Human Services, Metro CareRing and Colorado Legal Services. More than 18,000 people have been as- sisted since 2007 and it is estimated that there are 100,000 people in Colorado who still need these services. Project partners cannot keep up with the demand. If you see an average of 225 people each month, most are poor, elderly, have disabilities or are homeless. The Collaborative ID Project spends $4,000-$8,000 each month to ob- tain the required documents, money that could well be spent on other urgent needs.

These are just some of the reasons The Legal Center is concerned about the proposed requirement for gov- ernment issued photo identification for voting. Rights advocates note that every Colorado citizen with a disability who is eligible to vote and wants to vote has a right to vote and have that vote counted.
Thank You Donors!

Legacy Society
The following donors notified The Legal Center that they included a gift in their estate plan.

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Randy Chapman
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Financial Summary FY 2011

According to Center for Legal Advocacy’s Audited Financial Statements for the year ended September 30, 2011:

Income
Government grants & contracts $1,932,907 89.8%
Charitable contributions $176,212 8.2%
Programs sales and fees $44,232 2.0%
Total Income $2,153,351

Expenses
% of total expenses
Programs $1,939,821 87.9%
Fund Raising $89,748 4.0%
Administrative $176,455 8.1%
Total Expenses $2,206,024
Net: ($66,676)
Ending Net Assets: $534,015

THIS INFORMATION MEETS THE BETTER BUSINESS BUREAU CHARITY STANDARDS.

Join Our Legacy Society today and remember The Legal Center.

The Center for Legal Advocacy, our legal and corporate name, is usually known as The Legal Center for People with Disabilities and Older People. We are very fortunate to have many friends and supporters who have included The Legal Center in their estate plans; and we would like to again thank those donors referred to in the Legacy Society section of this publication. As a result of their planned and future gifts, whether by a bequest, trust, gift of life insurance policy or beneficiary designations on retirement accounts (to name but a few), they are members of our Legacy Society.

May we invite you into our Legacy Society? If you have not invited The Legal Center as such a gift, we invite you to let us know. As a member of the Legacy Society, you become part of a group whose shared commitment is to ensure a future in which the promise and protection of the law is available to older people and people with disabilities. Please contact Joshua Anderson, Director of Development, at 303-722-3000 ext. 507 or email: jAnderson@thelegalcenter.org, if this is something you have done or have an interest in pursuing. Thank you in advance for your interest in the future of the Legal Center.

Giving Opportunities
We rely on your generous support of The Legal Center for People with Disabilities and Older People!

Workplace Giving – There are several ways to include The Legal Center when giving at the workplace. We hope you will consider and remember us, depending on your employer’s available options. The choices include:

• Mile High United Way, www.unitedwaydenver.org, and designate The Legal Center for People with Disabilities and Older People.

Caring Connection – with over 58 nonprofit organizations that serve the needs of Colorado’s most vulnerable people, Caring Connections is the federation we are joined in 2010 to allow participation through the combined campaigns for Denver, Colorado and the Federal Government, along with many private companies. Visit www.caringconnection.org for more information and please designate The Legal Center, #1094, when reviewing your options for the year.

Online Giving – Remember to visit our website, www.thelegalcenter.org and make an online donation at any time of day or night.
Jennifer Purrington has been interning for The Legal Center since the fall of 2011. Jennifer is a third year Chancellor’s Scholar at The University of Denver Sturm College of Law, meaning she has a particular interest in special education law. She has a demonstrated commitment to public interest work. This was evident from her time as she has previously worked with Disability Rights Oregon, the housing unit at Colorado Legal Services, and is currently working at The Colorado State Public Defender’s Office.

Thanks to Jennifer Purrington

Jennifer Purrington was the Denver Metro Community Ombudsman Program; the Legal Center has been able to provide a critical resource for one of our key partners in the ongoing work of empowering parents to ensure an inclusive education for their children with disabilities.

The 60th OAP will be provided free of charge to individual parents and teachers based on need when they call or visit to request information. They will also be distributed as part of Denver Metro CPRC’s workshop presentations on special education issues, some of which are provided in collaboration with The Legal Center. Information about Denver Metro Community Parent Resource Center can be found at www.denverme-prc.org, or by calling (303) 365-2722.

Protecting and promoting the rights of Colorado’s older adults

Mary Catherine Rabbiot, work closely with the ombudsman and legal providers at the state’s 16 regional Area Agencies on Aging (AAA) to coordinate services statewide.

In addition to coordinating the provision of services, key responsibilities of the ombudsman are to monitor how well current health care and long-term care programs meet the needs of our state’s seniors, and advocate for changes in laws and regulations that impact aging and those in their care.

A woman newly admitted to a long-term care facility told staff and the ombudsman that family members were misusing her funds and that she didn’t want them to make decisions for her. The family refused her request to have a phone in her room. The ombudsman worked with Adult Protective Services and the facility to resolve the issue.

A senior was persuaded by her daughter to transfer over $200,000 of her own home and to place the daughter’s name on her bank account. After a dispute, the daughter forced her mother into a nursing facility, converted her mother’s funds and put them all into her own account. The local legal assistance provider convinced the creditor to freeze the funds and brought suit to recover the property and funds wrongly taken by the daughter.

A state wide network to protect vulnerable seniors

These two stories illustrate the work of local ombudsmen and legal providers, part of the statewide network comprising: The Colorado Long-Term Care Ombudsman Program; the Legal Assistance Development Program; the Colorado Department of Human Services Division of Aging and Adult Services; the state’s 16 regional Area Agencies on Aging (AAA) to coordinate services statewide.

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There is a serious shortage of Medicaid-funded assisted living beds, and this shortage is especially acute in rural areas, in underserved areas and those in outlying areas of the state.

Mental health services are not adequately funded or are not available to residents of long-term care facilities and staff are not adequately trained in providing mental health needs of residents and their resulting behaviors.

There are insufficient housing options available in the community for individuals with disabilities.

For a copy of the annual report, please call or email The Legal Center at thankjennifer@lawdep.colostate.edu, 303.722.0790 or toll-free, 800.137.5066 or download it in PDF form from our website.

CenturyLink donates 600 books to benefit children with disabilities

CenturyLink’s employee-run Family & Education Development Fund responded to a request from The Legal Center by funding 600 copies of our publications distributed by local ombudsmen to low-income, culturally and linguistically diverse families as advocates for their children with disabilities, ages birth - 26 to achieve meaningful participation in their schools and communities.

The donation includes 200 copies of each of three books: The Everyday Guide in Special Education Law; Guide de la Ley de Educación Especial, a dual-language (Spanish/English) version of The Everyday Guide so that Spanish-speaking parents can “be on the same page” with educators when advocating for their children’s needs; and Preventing Litigation in Special Education Workbook, a companion volume to The Everyday Guide so that educators can better understand and comply with the law that guarantees children with disabilities a free, appropriate education.

Yvette Plummer, executive director of CPRC, said: “Many parents who have children with disabilities are unaware of the laws that support their children in meeting the developmental, functional, and challenging academic achievement goals that have been established by the state and well as laws to prepare their children to lead productive, independent adult lives to the best of their ability. The Everyday Guide is a book we consistently refer parents to as an important resource. Since the majority of these parents cannot afford to purchase the books, we are especially grateful to The Legal Center for making the request to CenturyLink and to the company’s employees for granting this donation.”

Randy Chapman, author of the three publications, notes that: “Through the generosity of CenturyLink, The Legal Center has been able to provide a critical resource for one of our key partners in the ongoing work of empowering parents to ensure an inclusive education for their children with disabilities.

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Previous a special education teacher, Jennifer came to The Legal Center with a particular interest in special education law. We have been happy to use her skills in that area, but we have also leveraged her substantial knowledge in fair housing law and the housing issues facing older adults. She has assisted The Legal Center staff with IEP (individual education plan) meetings, legal research, drafting legal briefs, and helping to identify new ideas for innovative ways to accommodate people’s disabilities in the workplace. She has been an invaluable resource.

Jennifer is originally from South Dakota. She earned her B.S. degree at Winona State University and her M.S. in Gerontology/MA/BA at The University of North Carolina at Greensboro. She plans to take the bar exam this summer and find a permanent position in public interest law in Colorado.

We love working with Jennifer and hope to continue doing so for a long time to come. Thanks for all of your help, Jen!

The Everyday Guide to Avoiding Litigation in Special Education Law

A state wide network to protect vulnerable seniors

These two stories illustrate the work of local ombudsmen and legal providers, part of the statewide network comprising: The Colorado Long-Term Care Ombudsman Program; the Legal Assistance Development Program; the Colorado Department of Human Services Division of Aging and Adult Services; the state’s 16 regional Area Agencies on Aging (AAA) to coordi-
Defending the right to a discrimination-free workplace

The Legal Center was pleased to receive a probable cause finding from the Equal Employment Opportunity Commission (EEOC) recently. The Legal Center filed a complaint of disability discrimination in Education Evaluation across a nationwide grocery chain on behalf of a client who was refused the opportunity to work there. The client was constructively discharged after enduring constant harassment based on his disability. (A constructive discharge is when an employee feels he or she has no choice but to resign.)

The Legal Center involved the young man’s case early on, attempting to negotiate for better training at the store and other remedies. When those efforts failed, we filed with the EEOC. After investigating the case for over a year, the EEOC ultimately determined that our client faced discrimination and retaliation at the hands of his former employer. Though this can’t change the things that happened in the past, it has given the client a sense of justice in knowing that the employer has been told that their practices were wrong and illegal. The client is now considering his options, including filing his case in federal court.

Defending the right of a young man with disabilities to live in the community

During the winter of 2011, The Legal Center was contacted by several advocate organizations that were concerned about a 21-year-old man with developmental disabilities and attention deficit/hyperactivity disorder (ADHD) who was ordered by a court to live in a nursing home for an indefinite amount of time. The Legal Center agreed to represent the young man based on the grounds that someone this young did not belong in a nursing home but was assisting others in his community in which he could socialize with people of his own age. The Legal Center worked closely with the advocate organizations to develop a community plan that would convince the court to lift the order. The hearing was set, and Alison Daniels and Jennifer Levin attended as counsel for the client. The court’s order was not necessary and that our client should be free to live on his own in a place of his choosing. The court found in favor of The Legal Center’s client, allowing him the freedom to leave the nursing home that day and live his life with family and friends.

Challenge program recruitment reaches out to children with visual impairments

Since 2001, Foresight Ski Guides has offered low-cost, accessible snow sports for children and adults with visual impairments. Foresight’s program is built on the philosophy and methods of challenge recreation, where participants build skills and courage by engaging in activities that they initially feel is a frightening situation, but with support they discover they can safely push their boundaries and learn lessons that apply to other areas of their lives. Foresight’s program with the Colorado School for the Deaf and the Blind has grown steadily over the past few years to meet the needs of students, many of whom have physical and cognitive disabilities in addition to visual impairments. Foresight’s collaboration with the school offers a unique program that aligns life skills and fitness with challenge recreation to prepare the students for a fulfilling career following graduation. As the school’s Principal Barb Meese expresses it: “Once the students discover they can conquer the mountain, they can conquer anything in their life!”

Foresight Ski Guides is planning to build on the impact made with this comprehensive program by reaching out to other children throughout Colorado who would benefit. Professional skiers who have visual impairments, as well as their parents and friends, are invited to become mentors through our mentor program. There are now free of charge by calling or emailing the Legal Center or by downloading from www.thelegalcenter.org. The two programs work together to protect and promote the rights of Colorado’s older adults and to improve their quality of life. The Ombudsmen Program protects the rights of all people in nursing homes and assisted living residences in Colorado.

The Everyday Guide to Special Education Law, Second Edition

By Randy Chapman, Esq., updated to include the most recent changes in federal law including:

• the IDEA requirements for services plans for children placed in private schools
• how to file complaints with the Education Agencies for violations of the IDEA including obtaining compensatory services
• timelines for resolving disputes under the IDEA and how to use “mediation” and the new “resolution process”
• the evaluation process and response-to-intervention (RTI)

This edition has been so popular, it is now in its second printing. The Everyday Guide to Special Education Law is available for $24.95 (and is also available as an e-book for $9.95). The Preventing Litigation in Special Education WORKBOOK can be purchased for $19.95 (see above) BUT both books can be purchased together for only $35.00. Now available as e-books.

Guía de la Ley de Educación Especial, the Spanish translation of The Everyday Guide to Special Education Law: The Spanish and English texts are included side-by-side on every page. $29.95. Purchase Guía de la Ley and the WORKBOOK together for $40.

“The But I Don’t Want Elder- care!” Helping Your Parents Stay As Strong As They Can As Long As They Can

This is the guide the author wishes he had before his mother’s medical crises changed each of their lives. Terry Lynch draws on extraordinary personal experience in this eye-opening guide to the future, from his work with the White House Commission on individuals with disabilities to a decade as his mother’s caregiver. While he assisted other families, Terry helped his mother remain at home in spite of significant medical problems and a life-changing memory disorder. But I Don’t Want Elder-care! costs just $17.95. Now available as an e-book for $9.99.
Annual Attorneys’ Night Out – June 20th, 2012

Don’t forget to mark your calendar to attend our 7th Annual Attorneys’ Night Out and Auction on Wednesday, June 20th. Once again the Denver Bar Association Young Lawyers Division will host our annual fundraiser thanks to our friends at the Blake Street Tavern. Dalmore will be providing the scotch tasting, and a complimentary wine or beer will be provided along with hot appetizers at this benefit for The Legal Center.

To sponsor the event, please contact Joshua Anderson at janderson@thelegalcenter.org or (303) 862-3507. You’ll be in great company – the following generous sponsors are already signed up:

Our thanks to the following sponsors:

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Please visit our website at www.thelegalcenter.org to find out about sponsoring the event, buying tickets (admission is $25 prepaid on line or $30 at the door) contributing auction items or considering what auction items you may want to bid on that evening. Additionally, we will be providing a scotch tasting by sponsors Dalmore & the Isle of Jura. Our thanks to the Denver Bar Association Young Lawyers Division, Blake Street Tavern and our generous sponsors. This is sure to be the event of the summer!

Follow news about The Legal Center online at www.thelegalcenter.org!

Please visit us through all of our online resources:
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Facebook – http://www.facebook.com/pages/The-Legal-Center-for-People-with-Disabilities-and-Older-People - please become our friend and receive regular updates on The Legal Center
Twitter – http://twitter.com/thelegalcenter - for brief blurbs about our work