

# INEQUITY IN THE CORRECTIONS SYSTEM

BY ERIN CALLAHAN '07, NEW HAMPSHIRE BAR FOUNDATION FELLOW



My decision to attend law school was not easy. As a college student at Colorado College, I became passionate about women's rights and about gender equality. When applying to law school I also applied to master's programs in social work. Although I chose law as my career path, it was not until last summer that I fully realized I had made the right decision.

Last summer I received a Public Interest (PIC) Fellowship from Pierce Law's Public Interest Coalition, sponsored in part by the New Hampshire Bar Foundation. As a PIC Fellow, I worked at the New Hampshire Commission on the Status of Women, a state agency dedicated to monitoring legislation, overcoming discrimination against women, promoting opportunities for women to develop their skills and continue their education, and recognizing women for their accomplishments. While working for the Commission, I helped with various projects including a Spanish translation of the *Legal Handbook for New Hampshire Women* and research on recent child support and custody legislation. The project that I became most involved with was the Commission's effort to improve the New Hampshire corrections system for women.

In December 2004, after months of investigation, the Commission released a report revealing that conditions at the New Hampshire State Prison for Women, as well as educational and therapeutic opportunities available for women in prison, were not on par with the conditions and opportunities available at the New Hampshire State Prison for Men. In addition, the state corrections system seemed nearly completely unequipped to deal with the many issues related to the fact that most female offenders in New Hampshire, like most female offenders across the nation, are mothers of minor children and many have been victims of domestic violence and sexual abuse.

Following the release of the report, the Commission received an almost overwhelming response from legislators, concerned citizens, state workers, and former inmates offering to lend their support to the Commission or help improve the

corrections system in whatever way they could. I helped organize a comprehensive database of all the responses to the prison report and wrote letters to those who had contacted the Commission. I also researched and wrote a review of national and state literature on the status of women focusing on corrections, the legal issues surrounding the disparity between male and female correctional facilities and resources, and the best methods for resolving these inequities and reducing recidivism among women. My work on the prison project culminated with organizing a meeting between New Hampshire corrections personnel and several national experts on gender-specific corrections programming.

However, the two most memorable experiences of the summer were accompanying a group of legislators on a tour of the State Prison for Women and interviewing a former inmate about her experiences with the corrections system. During the tour and interview, the Commission report statistics revealed their true significance in these living, breathing people. While the legislators and I listened to the inmates' stories, which echoed the many stories I had read, the repercussions of systemic inequality became unsettlingly clear to me. Due to the lack of comprehensive psychiatric care, drug treatment, and educational programming in the prison, these women were stuck in an almost endless cycle of incarceration that affected not only the inmates, but also their children and families.

While most of the work I was doing at the Commission did not have a direct or immediate impact on the lives of inmates, coming face to face with these women made me realize that I was contributing to a project that will hopefully change the corrections system and improve the lives of women offenders in New Hampshire. I also realized that, as a lawyer, I will have the knowledge and skills to help fight injustice of all kinds. My summer as a Public Interest Coalition Fellow with the New Hampshire Commission on the Status of Women affirmed that I have chosen the career path which will allow me to contribute in a valuable way to improving justice for marginalized people who need a voice that will be heard.

# A BOX FULL OF PAPERS

BY MARY KUEGER '06, CINDY LONERGAN ELDER LAW AND PATIENTS' RIGHTS FELLOW

My introduction to elder law started with a box full of papers. Judith Jones, directing attorney of the Senior Citizens Law Project at New Hampshire Legal Assistance (NHLA), delivered them to me at the beginning of my internship as a Public Interest Coalition Fellow with NHLA last summer. As Judith began explaining to me what to do with these papers, she stopped herself mid-stream to apologize. We didn't know each other and she wanted to be sure that she wasn't overwhelming me with her outrage. I did not really understand what was so outrageous about the box of papers. Nonetheless, her enthusiasm was infectious.

Judith's enthusiasm was also shared by the woman originally responsible for collecting the contents of this box, Cindy Lonergan—the woman for whom my Public Interest Coalition Fellowship, the Cindy Lonergan Elder Law and Patients' Rights Fellowship, was named. Not only had Cindy collected the box's contents, she had initiated the effort to examine long-term care contracts for NHLA with passion and enthusiasm. As a result, Cindy became responsible for my foray into an area of law many law students do not consider—elder law.

On first glance, elder law is not an area of public interest law that sends people marching into the streets. It lacks the glamour of free speech and the disgrace of child abuse. Elder law is, however, an area of law that touches most people's lives as we care for aging parents and plan for our own long-term health, housing and financial needs.

Families familiar with the web of elder law issues face legal questions over federal and state regulations, housing law, contract law, patient and consumer rights, taxes, wills, trusts, and other financial issues. What I realized this summer is that beneath this bland list of issues is the fodder for outrage, a spark of which flickered as I began sorting through the box.

While the box was full of nameless and faceless contracts, it gave me an opportunity to delve into a developing area of public policy and law—senior housing and health care. In particular, I was examining assisted living contracts for facilities in New

Hampshire. To start, I needed to wend my way through the maze of applicable statutes and state regulations. Then I needed to evaluate both individually and collectively, how well these contracts complied with the relevant law.

Sound boring? It was—but only until I realized just how complicated the law truly is, bringing together various long-term care statutes, housing laws, contract law and state regulations. In addition, I found that many contracts had problematic provisions and omissions, and that many unresolved policy questions exist regarding long-term care contracts. These uncertainties would surely complicate long-term care planning for a number of families.

From my review of the contracts, it seemed likely that seniors were handing over their money without knowing or understanding the law and its implications.

Most people facing the prospect of assisted living are doing so because they have realized that they are unable to live independently in their current homes. They need help with their routines, such as cooking, eating, cleaning, dressing and bathing. The promise of having help in a safe and nurturing atmosphere is what draws them to make the move.

However, as I analyzed the contracts and the law, I found loopholes, grey areas and vague language overshadowing that promise. Conditions are ripe for unfavorable treatment of vulnerable seniors. In some cases, there were no guarantees that seniors would be given the services promised and needed. Without notice, they could be required to leave their housing for just about any reason, including becoming too burdensome or expensive. It wasn't at all clear where they would go once that happened, or once they ran out of money. As the unfair consequences of these contracts became apparent to me, the spark ignited.

Despite the devastating consequences of many long-term care contracts, these issues are not yet in the public's consciousness. Why? I wonder. Perhaps it is because the issues raised by elder law force us to consider our own mortality and the



un-pleasantries that may accompany the aging process. Something most of us would prefer to avoid.

Ironically, facing mortality is exactly what Cindy Lonergan had to do. As a third year law student, her mission to work on elder law issues was cut short when she was diagnosed with a terminal illness. In her prior career as an occupational therapist, she had seen first-hand the way in which these legal uncertainties were affecting seniors and their families. While I did not know Cindy, her work in law school and as an intern at NHLA kept her mission alive. She, along with family and friends, created the Cindy Lonergan Elder Law and Patients' Rights Fellowship to fund law students working on elder law issues and in particular, on housing and health care for seniors.

When I was named the first Lonergan Fellow, I had no idea that a box full of papers would become my gateway into an area of law rife with tough questions over how we as a society choose to treat some of our most vulnerable citizens. I also had no

idea that I would be building on Cindy's work to illuminate and solve problems within a system that will be caring for more and more seniors as our aging population explodes. After spending quality time with the box's contents, and reflecting on what it represents, I became outraged by what I found. And for that, I have Cindy to thank.

*Mary Krueger is the first recipient of the Cindy Lonergan Elder Law and Patients' Rights Fellowship. A third-year law student, she will be working as a staff attorney for New Hampshire Legal Assistance beginning next fall. For more information on how to support the Lonergan Fellowship and other public interest fellowships, contact Director of Development Gayle Mazalewski, gmazalewski@piercelaw.edu.*

#### 14th PUBLIC INTEREST COALITION AUCTION

**Friday, March 24, 2006**

Silent Auction 5 PM

Live Auction 7 PM

Courtyard Marriott

Concord, NH

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