

Case 40

The National Prison Project of the American Civil Liberties Union

Edna McConnell Clark Foundation, 1972

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Background. In the early 1970s, Aryeh Neier, then head of the American Civil Liberties Union (ACLU), decided to create a program to establish more expansive rights for prisoners incarcerated in the United States. Already, in the 1970s, it was apparent that overcrowding and a lack of adequate staff and services were making American prisons less humane and more violent places. Neier believed that an ongoing initiative focused on this specific area of civil and human rights would be more effective than the case-by-case interventions more commonly pursued by the ACLU.⁶¹⁷ He decided to combine two existing independent projects on prisoner's rights under the umbrella of the ACLU, and recruited Alvin J. Bronstein to direct the new ACLU National Prison Project (NPP). Bronstein was chosen because he "had the stature to unite the separate efforts," and for his skill and experience as a civil rights litigator.⁶¹⁸

Strategy. The Project was funded, at its outset, by the Field Foundation, the Stern Family Fund, and the Playboy Foundation.⁶¹⁹ Very soon, it gained the support of the Edna McConnell Clark Foundation, which became by far its largest supporter. The NPP aims "to create constitutional conditions of confinement and strengthen prisoners' rights..."⁶²⁰ Its primary tactic is class action litigation which seeks to redress, in court, prison conditions and policies that violate the civil and human rights of inmates. The Project's four main priorities are to reduce overcrowding, improve medical care, eliminate violence and maltreatment, and minimize the United States' "reliance on incarceration as a criminal justice sanction."⁶²¹

In addition to bringing lawsuits, NPP also publishes materials highlighting flaws and proposing reforms in America's prison system, holds training and education conferences, and "provides expert advice and technical assistance to local community groups and lawyers throughout the country."⁶²² During the time it worked in the prison reform area, the Edna McConnell Clark Foundation provided over 50 percent of the NPP's annual budget.⁶²³

Outcomes. The National Prison Project has, to date, won lawsuits on behalf of prisoners in more than twenty-five states.⁶²⁴ In the Project's first major case, Bronstein, in 1975, argued for sweeping, broad reforms in the Alabama prison system. He won, and in January of 1976 the court, calling the Alabama prisons "barbaric and inhumane," ordered large-scale changes in response to the "overcrowding, violence, filth, and inadequate food, shelter, medical care and staff" of the state's prisons.⁶²⁵

Since then, the NPP has litigated successfully a great many significant cases. In 1987, for example, NPP, along with the Public Defender Service won a judgment declaring that Washington, D.C.'s juvenile detention facilities were characterized by unnecessary confinement and poor conditions. The court in that case ordered that half of D.C.'s youth offenders be released into shelters, foster homes, and drug rehabilitation facilities.⁶²⁶ In 1988, the NPP won a case holding that no prisoner's political history could be used in determining his or her security status.⁶²⁷ And in 1992, NPP lawyers argued a case before the Supreme Court of the United States in which was established the precedent that prison beatings can be "cruel and unusual," and therefore unconstitutional, even if the physical damage sustained is only superficial.⁶²⁸

Impact. All told, the lawyers of the National Prison Project have "successfully represented over 100,000 confined men, women, and children."⁶²⁹ With years of Edna McConnell Clark Foundation

support, the Project became an effective agent of major prison reform. The early support of the Field, Stern, and Playboy Foundations had enabled the ACLU to get its National Prison Project up and running. And the major funding provided soon after by the Edna McConnell Clark Foundation had underwritten much of its work for many years. In that time, the NPP did a great deal to improve conditions in America's prisons and preserve the rights of the confined. As the ACLU website declares, "[t]he great majority of offenders will return to their home communities; the public interest is ill-served if they return battered in body and spirit, schooled in crime and angry at their treatment by society."⁶⁰

For most of its history, the NPP has been working against the grain. Although it has brought to light many of the injustices and inadequacies of the American prison system, the Project has been unable to convince many legislators that mandatory long-term incarceration, and the deprivation of needed resources, can, in fact, be counter-productive. The overall trend in Congress and many state houses has been toward mandatory minimum sentences and limits on the constitutional protections afforded prisoners.⁶¹

Despite this, some public officials have been willing to credit the National Prisoner Project for playing a major role in such prison reforms as have been achieved. In 1982, the head of the Federal Bureau of Prisons endorsed the NPP's strategy, saying, "I think the courts have done more to improve corrections in this country than any organization and individual. . . ." The National Prisoner Project of the ACLU is still the only program striving to protect in court the rights of the incarcerated, and its work was enabled—in large part—by the support of the Edna McConnell Clark and other foundations. It has been, and continues to be, absolutely vital work; it is work that defends the rights of a large class of Americans—now numbering over 3 million—who are not likely to be protected by anyone else.

Notes

617. Phil McCombs, "ACLU Unit Winning Fight for Reforms in Nation's Prisons," *Washington Post*, 5/24/1982.
618. Ibid.
619. Margo Schlanger, "Beyond the Hero Judge: Institutional Reform Litigation as Litigation," *Michigan Law Review*, Vol. 97 (1994).
620. Available from <http://www.aclu.org/Prisons/>.
621. Ibid.
622. Ibid.
623. Phil McCombs, "ACLU Unit Winning Fight for Reforms in Nation's Prisons," *Washington Post*, 5/24/1982.
624. Ibid.
625. Ibid.
626. Elsa Walsh, "D.C. Told to Change Juvenile System; Judge Says Population in 3 Detention Centers Must Be Halved," *Washington Post*, 10/10/1987.
627. So, for example, it would be illegal to transfer a prisoner into maximum security simply because of his or her political beliefs. Associated Press, "Judge Bars U.S. from Isolating Prisoners for Political Beliefs," *New York Times*, 7/17/1988.
628. David Margolick, "From a Lonely Prison Cell, an Inmate Wins an Important Victory for Civil Liberties," *New York Times*, 3/6/1992.
629. Available from <http://www.aclu.org/Prisons/>.
630. Ibid.
631. The Prison Litigation Reform Act of 1996, for example, restricts the ability of federal courts to regulate prison conditions.