Texas APPLESEED

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October 2008

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Improving Foster Children's Lives

Drug addiction. Poverty. Homelessness. Incarceration.

Children leaving long-term foster care are at increased risk for lives filled with these debilitating challenges—and the Texas Supreme Court's **Permanent Judicial Commission on Children, Youth & Families** is turning to Texas Appleseed for ideas for change.

Partnering with **Fulbright & Jaworski L.L.P.** and **McGinnis, Lochridge & Kilgore, L.L.P.**, with funding support from the **Rees-Jones** and **RGK Foundations**, Texas Appleseed is launching a major statewide study to determine how the courts and legal system can improve life outcomes for the almost 15,000 children in long-term foster care in Texas.

"When a child is in Permanent Managing Conservatorship, the state is the 'parent'—and we need to pay greater attention to what is happening to these children in our care," said Texas Appleseed Board Member **Allan Van Fleet**, a member of the Judicial Commission.

Texas Appleseed Executive Director **Rebecca Lightsey** said, "Four out of five children in long-term foster care are being shuffled between an average of eight different foster care placements before aging out of the system at 18.

(L-R) Marcy Greer, Fulbright & Jaworski and Jennifer Patterson, McGinnis, Lochridge & Kilgore

"These children need stability in their lives but do not have it. Frequent moves disrupt their

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School-to-Prison Work Expands to Ticketing, Impact of Expulsions

Major grant support is enabling Texas Appleseed to move rapidly into the next phase of its School-to-Prison Pipeline project focusing on ticketing at school and expulsions to Juvenile Justice Alternative Education Programs.

"As more tickets are issued at school, we are witnessing a transfer of student discipline to the courts. We need to be very cautious that we are not trivializing our justice system," said Legal Director **Deborah Fowler**.

Texas Appleseed is analyzing Texas Juvenile Probation Commission data on expulsions and school-based referrals to Juvenile Justice Alternative Education Programs (JJAEPs), as well as ticketing and student arrest data from courts and school district police.

"We're finding that almost half of the young people in JJAEPs are referred there for 'serious or persistent misconduct' while attending a school district's Disciplinary Alternative Education Program (DAEP)—and not for mandatory expulsion offenses defined in Texas law," Fowler said.

"We're also seeing huge differences in the way that school districts, in their written agreements with DAEPs, define 'serious or persistent misconduct.' Once again, where you go to school, and not the nature of the offense, is the greater predictor of escalating levels of school-related discipline," she said.

Later this year, Texas Appleseed will release a new resource, *When My Child is Disciplined at School: A Guide for Families*.

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2008

GOOD APPLE DINNER

Thursday, November 6, 2008 | The Four Seasons Hotel - Austin | www.texasappleseed.net

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Are Immigration Courts in Need of Reform?

Immigration issues have attracted a great deal of public attention and discussion. Little scrutiny, however, has been paid to our country's immigration detention and court system.

At any one time, more than 33,000 immigrants are detained in detention centers across the country; nearly half of those detainees are in Texas.

Recent headlines have highlighted myriad problems—the political appointment of immigration judges, the lack of medical attention in detention centers, and inappropriate deportation rulings by immigration judges.

At a Congressional hearing earlier this year, **Mary Meg McCarthy**, Executive Director of the **National Immigrant Justice Center**, said immigration detainees "frequently have to fight to obtain basic medical care and treatment for life-threatening conditions. Many never receive care, especially those with limited English fluency and no legal representation."

Now, out of the media spotlight, allegations have surfaced about poor treatment of detainees with mental illnesses and how their mental impairments are contributing to improper deportation hearings and decisions.

Texas Appleseed is beginning to take a hard look at this issue. As part of a national Appleseed initiative led by national Appleseed Chair **Jim Rogers** with **Latham and Watkins**, we will examine immigration courts and the challenges facing detainees with mental impairments.

Already, we have heard reports of these detainees being denied access to prescribed psychotropic medicines while in detention, or their being so heavily drugged during court hearings that they appear "in a daze" or "to the point of developing foam around their lips." In such a state, detainees will accept a deportation order without realizing the consequences.

Texas Appleseed will investigate concerns that immigration judges are not routinely informed of detainees' mental health issues—and will examine whether the common practice of conducting deportation hearings by televideo compromises a judge's ability to assess competency. By some estimates, as many as 15 percent of all detainees suffer from a mental illness.

Texas Appleseed has worked successfully with communities like Austin, Dallas and El Paso to make systemic changes to improve legal representation for persons with mental health needs. We have provided attorney/family handbooks and judicial monographs on issues relevant to due process rights of defendants with mental impairments.

It is time to shed new light on our immigration courts and ensure that any barrier to fair legal representation is removed.

Rebecca Lightsey
Executive Director, Texas Appleseed

Richard Warren Mithoff: 2008 Good Apple Honoree

Texas Appleseed will present Houston attorney **Richard Warren Mithoff** with the *J. Chrys Dougherty Good Apple Award* at the annual Good Apple Dinner on Nov. 6th at the Four Seasons Hotel, Austin.

Richard Warren Mithoff
2008 Good Apple Award Honoree

Greenberg Traurig, LLP and **Weil, Gotshal & Manges LLP**, will receive the *2008 Pro Bono Service Award* for their work benefitting victims of natural disasters and protecting the rights of children—proof that pro bono can change lives.

"We are delighted to recognize these two long-time Appleseed pro bono partners and to host a special evening to honor Richard Mithoff's lifetime commitment to justice, his pursuit of diversity and highest standards for the legal profession, and his generous spirit of giving back to the community," said Texas Appleseed Executive Director Rebecca Lightsey.

Mithoff, twice named "Best Civil Lawyer" in Houston, has handled numerous precedent-setting cases removing defective products from the marketplace. His success in the courtroom has led to statutory changes in hospital reporting requirements for medical misconduct.

A graduate of The University of Texas School of Law, Mithoff has endowed many scholarships, including a Presidential Scholarship for disadvantaged students pursuing a law degree.

Greenberg Traurig, LLP is being honored for their deep involvement in protecting the rights of victims of natural disasters. The firm funded a legal fellowship position at Texas Appleseed, helped block the eviction of Hurricane Katrina evacuees in Jefferson Parish, La., and is working with Texas Appleseed on a study of needed policy changes to ensure future fair and timely distribution of disaster relief funds.

Weil, Gotshal & Manges LLP pledged resources and legal help to protect young people in the custody of the Texas Youth Commission. Their backing enabled Texas Appleseed to work with the TYC to end the policy of holding teens in long-term isolation cells to "manage aggression."

To make your reservation for the Good Apple Dinner, contact Susan Harry at (512) 542-9744 or Susan@susanharry.com.

APPLESEED BRIEFS

Banking in a Global Market

Senior Policy Analyst **Ann Baddour** addressed the **Center for Enterprise Development's** national asset building conference in September, describing Appleseed's efforts to promote market change by encouraging money wire operations to display a **Fair Exchange** logo if they fully disclose the true costs of wiring money. The Fair Exchange project is modeled after the Fair Trade branding of coffee.

In partnership with the **FDIC Alliance for Economic Inclusion**, Baddour updated more than 85 financial institutions and community groups this summer on how to set up fair and profitable remittance services. Appleseed's new "how to" remittance guide, *Banking in a Global Market*, can be downloaded at www.texasappleseed.net.

Small Dollar Loan Options

Texas Appleseed will participate in a state payday lending conference sponsored by the **Federal Reserve Bank of Dallas** in November. **Mayer Brown LLP** is helping Appleseed research the impact of the new federal law establishing a 36% rate cap on small loan lending to the military in Texas.

Foster Care

continued from page 1

education, make it harder to diagnose learning disabilities, and complicate their getting the medical and mental health treatment they need," said Lightsey, who serves on the Judicial Commission's collaborative council.

Marcy Greer, a partner at Fulbright & Jaworski, is directing pro bono work on this project. Greer said interviews have begun in the state's six largest counties and in rural counties with cluster courts that hear child welfare cases.

Today, nearly 65 percent of children who have been in foster care for more than three years will turn 18 without finding a permanent home. In initial interviews, judges touched on the many challenges facing these and other foster children: short-handed case workers, children moved from place to place across the state, and children turning 18 with little support.

"It's not a reflection on the judges; it's a reflection on the resources available," Greer said.

Jennifer Patterson, partner in McGinnis, Lochridge & Kilgore, said these children need advocates to ensure their needs are met and that they make a healthy transition to life after foster care. Preliminary findings are anticipated in January, with more far-reaching recommendations slated for 2010.

School-to-Prison

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"The consequences of school discipline must be taken very seriously—and it is critical that parents stay involved," Fowler said.

Texas Appleseed released its first-year findings in late 2007, documenting a significant over-representation of minority and special education students in schools' discretionary disciplinary referrals.

"We are deeply grateful to **Houston Endowment** for its generous award—the largest in our 11-year history, and to **The Simmons Foundation**, the **Harold Simmons Foundation**, and the **Meadows Foundation** for supporting this work," said Executive Director **Rebecca Lightsey**.

Visit www.texasappleseed.net to download the report: *Texas School-to-Prison Pipeline, Dropout to Incarceration: the Impact of School Discipline and Zero Tolerance*.

FDIC Chair, Appleseed Share Dallas Panel

Chairing a consumer finance panel in Dallas last month, **FDIC Chairman Sheila Bair** addressed the upheavals in U.S. financial markets and the urgency of restoring public confidence.

"A number of banks have failed this year... and more are expected. ...We've discovered that the public needs to re-learn how deposit insurance works," Bair said. "Our message is 'confidence and stability.'"

Panelist **Ann Baddour**, senior policy analyst for Texas Appleseed, said the financial services market could help restore consumer confidence by tying profits to consumer success—not failure.

"What we saw in the subprime mortgage crisis was profit attached to closing a loan, and not to consumers' long-term ability to repay the loan," Baddour said.

The same profit model is at work in the largely unregulated small dollar loan industry, where the greatest profit occurs when consumers pay fees to repeatedly renew short-term loans they cannot repay on time.

FDIC Panelists (L-R): Texas Appleseed Senior Policy Analyst Ann Baddour, *Dallas Morning News* financial columnist Pamela Yip, FDIC Chairman Sheila Bair, Covenant Community Capital CEO Stephan Fairfield, Operations Director for Children's Defense Fund Cecilia Joseph, and Taxpayer Advocacy Panel member Elizabeth Colvin

"Overdraft fees, particularly those tied to debit card transactions, are also problematic," Baddour said.

"There is a misconception that you can't overdraw your account with a debit card, but that is not true. Nearly half of overdrafts happen through debit card transactions, creating high unexpected fees for consumers."

Bair said, "Bank failures are a reminder to us all—young or old, rich or not so rich—that every consumer needs to know their limits and to fully understand their rights.

"People need to know how to access safe, traditional banking services. They need to know which bank accounts suit their needs, how to avoid high fees, and how to put money away to buy home and build wealth."

Appleseed has distributed half a million copies of its financial education brochure series nationwide (available in English and Spanish).

Visit www.texasappleseed.net to download this series.

A Gathering of Visionaries...

Immediate Past Chair Jim George and his wife, **Cheryl**, recently hosted a spirited gathering of the Texas Appleseed Visionary Society and their guests. The Visionary Society is a group of individuals who are committed to ensuring justice for their fellow Texans through their generous gifts to Texas Appleseed.

Texas Supreme Court Justice Harriet O'Neill updated the group on the Permanent Judicial Commission for Children, Youth and Families and about Texas Appleseed's work to explore ways that the court system can better support children in long-term foster care. Attending was retired **Chief Justice Jack Pope**, who is a long-time supporter.

"I am proud to support Appleseed's outstanding work to ensure justice for the underserved in our state," Pope said.

To join the Visionary Society, contact Ann Starr at (512) 473-2800 x102 or visit www.texasappleseed.net

(L-R) Retired Chief Justice Jack Pope and Austin attorney Phil Friday

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The Visionary Society is a group of individuals who generously support Texas Appleseed.

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Recent Foundation Support

Texas Appleseed is deeply grateful to these foundations for their recent generous grant awards to support our work:

Annie E. Casey Foundation
Gulf Coast Fund for Community Renewal and Ecological Health
Harold Simmons Foundation
Houston Endowment
Kellogg Foundation
The Michael and Alice Kuhn Foundation
Levi Strauss Foundation
Meadows Foundation
Charles Stewart Mott Foundation
Rees-Jones Foundation
RGK Foundation
The Rockwell Fund
The Simmons Foundation
State Bar of Texas Litigation Section
Texas Bar Foundation
Western Union Foundation

Diversity Legal Scholars... in Their Own Words

Texas Appleseed is grateful to **The Michael and Alice Kuhn Foundation** and to **Austin and Dallas Hispanic Bar Associations** for their generous support of the Diversity Legal Scholars program.

To ensure greater diversity in the legal profession, Texas Appleseed and **Kaplan Education Centers** offer full scholarships to Kaplan's review course for the Law School Admissions Test. More than 225 students have received scholarships since 1996. In their own words:

"The (law school) application process was stressful enough, but knowing that paying for a prep course was one less thing on my 'to do' list helped tremendously. I believe that keeping the Diversity Legal Scholars program is essential to more students of color enrolling into law school."

- **Keyashia R. Barkins**, Garland, Texas
Wesleyan University School of Law

Hurricane Ike: Applying Lessons Learned

All too soon another hurricane has caused millions of dollars in property damage in Galveston, Houston and many neighboring areas.

For over three years now, Texas Appleseed has worked on disaster recovery issues—organizing clinics to meet the legal needs of hurricane evacuees and helping streamline the application process for Disaster Recovery Homeowner Assistance funds.

Texas Appleseed sued the Federal Emergency Management Agency (FEMA) to keep low-income hurricane evacuees in subsidized rental housing, with the lights on and their due process rights intact.

Texas Appleseed is now part of a network of organizations across Texas and the Gulf Coast working to ensure that the lessons learned after hurricanes Katrina and Rita are applied to improve disaster recovery.

To help rebuild the storm-damaged Gulf Coast, including low-income communities, FEMA must do what works: simplify application forms for housing and utility assistance, ensure timely notification of benefit awards, and employ a consistent, clear appeals process.

Because acting quickly to put disaster relief funds to work prevents suffering, Texas Appleseed has urged Congress to give the State of Texas, the City of Houston and Harris County the kind of responsible flexibility in the use of FEMA funds that improves the delivery of services.

For example, the FEMA housing program should be flexible enough to allow low-income families, who may not be able to document clear title to their homes, to sign affidavits of ownership so that repairs can begin without long, costly delays.

Working with other advocacy groups, Texas Appleseed has succeeded in changing the state's Community Development Block Grant (CDBG) Disaster Relief Program to accept such ownership affidavits—and to refer families to Lone Star Legal Aid for help filing these affidavits.

FEMA recognizes that it needs to work hand-in-hand with local government to improve disaster response, and these governments have asked that the FEMA auditors work directly with them to ensure accountability. With strong oversight in place and with the necessary flexibility, those most in need are assured of getting help as quickly as possible.

Texas Appleseed exists to provide a voice for those whose needs might not otherwise be heard. Through its disaster recovery work, Texas Appleseed is doing its part to strengthen our government's capacity to serve our fellow citizens.

Ronald C. Lewis
Chair, Texas Appleseed Board

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