Meeting People Where They’re At:
Being Conscious When Supporting Currently
And Formerly Incarcerated People

(Or, how to check yourself during Social and Legal Visiting,
Correspondence, Phone Calls, and Other Support)

Samantha Rodgers, CCWP
Windy Click, CCWP
Nora Wilson, Justice Now

Wednesday April 29th, 6–8PM.
2 Hours Elimination of Bias CLE Credit
California Coalition for Women Prisoners Coordinating Committee Leader, Parole Support Coordinator, Spitfire Speaker’s Bureau Coordinator
Windy is a survivor of prison and prisoner rights organizer. She was released in 2012 from Valley State Prison for Women where she did 17 years on a 15 to life sentence. Windy was a leader inside prison educating on Domestic Violence and Health Education. She has been a member of the California Coalition for Women Prisoners for the past 13 years.
Bios – Samantha Rogers, Program Coordinator, CCWP

formerly incarcerated, original member of Fired Up! an insider–outsider grassroots network founded by CCWP former prisoners that meets weekly in the San Francisco County Jail.

Formally incarcerated woman for over 17 years.

On installment plan and in 2011 I landed in San Francisco County jail and met CCWP doing a group called Personal Self – Empowerment and I was so excited about this group! 2011 I was a volunteer and 2012 I became part-time staff. Also going through my own battle of re-entry on life’s terms. I realize it was really people out here to help us women of all colors. My empowerment part kicks in and I wanted to be part of my sisters that had been left behind voice out in the world. Chowchilla Freedom Rally happened and I have been on a roll every scene. Traveling and breaking barriers wherever I go and managing to find healing for myself so I can continue to have healthy relationship with my children and grandchildren. Which they are depending on me to help them to the next generation.
Bios – Nora E. Wilson, Director of Legal Advocacy, Justice Now

is a prison abolitionist, attorney, and human rights activist. As Director of Legal Advocacy at Justice Now, she coordinates direct service provision to people in prison, trains future lawyers and activists in advocating for people in California prisons, and provides support to family and friends advocating for loved ones inside. Such support ensures people in prison and communities targeted for imprisonment the physical and emotional respite required to take part in Justice Now’s systemic change activities. Nora grew up in a conservative town in the deep South and learned from watching her mother advocate on behalf of a family member in prison. During law school, she discovered the most meaningful work she had ever undertaken through an internship with National Advocates for Pregnant Women, where she worked to secure the human and civil rights, health, and welfare of pregnant and parenting women who were suffering harm at the hands of the criminal justice system. After law school, Nora moved from the East Coast to become a proud resident of the East Bay. She began volunteering with Legal Services for Prisoners with Children in San Francisco and soon discovered Justice Now. Nora continued her legal training at Justice Now for over a year before she became a Staff Attorney, specializing in provision of direct services and medical advocacy on behalf of people in women’s prisons, as well as compassionate release advocacy and support on behalf of terminally ill and permanently incapacitated people in California prisons. In January 2015, when Justice Now adopted a collective staff structure, Nora transitioned to the role of Director of Legal Advocacy. She received her BA in Political Science from the University of Georgia in Athens, Georgia and her JD from Fordham University School of Law in New York City.
Today’s Presentation

- Intros & questions (15)
- Support When Folks Are Inside
  - Samantha & Windy (CCWP) (45 minutes)
  - Nora (Justice Now) (30)
- Support Upon Re-entry
  - Samantha & Windy (CCWP) (15 minutes)
- Q&A & Closing (15)
Meeting People Where They’re At, What does this mean?

- It takes effort to be self-aware and act consciously.
  - There are many ways in which the reality of someone outside is different than the reality of someone inside.
  - It is helpful to learn some of the ways things are different.
  - Then you can learn what you might be taking for granted, and learn how to act differently.
- Sometimes it takes planning to be considerate.
  - Sometimes you have to plan and take more time to think through how to be sensitive, and try to say the right thing or do the right thing, and it may take you time to learn what is insensitive or offensive.
- Today we will go over
  - Basics on being conscious, and how to act on good intentions.
  - Special situations where you might want to act differently.
Meeting People Where They’re At, What does this mean?

- The personal relationships are important, can’t do the legal or policy or organizing work without it
- Have to help people build the foundation for themselves so they can do the work

- You’ve got to be real
  - Don’t promise things you can’t deliver
  - Don’t misrepresent
  - Don’t lie
  - Be direct
  - Be consistent
  - Be encouraging
Meeting People Where They’re At, What does this mean?

- There are things to think about when someone is still inside
  - Time is different, and you must plan for delays and confusion created by delays
  - Structure is different, time is structured, but can also feel chaotic
  - Routines are important (think about when scheduling a call or visit)
  - Property is limited but an important part of culture

- There are things to think about when someone is preparing for release and when they first re-adjust to being outside
How to be considerate; how “property” affects people.

- People can’t get what they need, and this impacts their self-esteem and ability or desire to work with you
- People get money or property from family or work for wages
- People that don’t have money in their trust account (books) are labeled “indigent”
  - For 30 days they only get 2 hotel bars of soap, all in one conditioner and shampoo, toothbrush and toothpaste, bad industrial laundry soap, paper, pen filler, and 20 envelopes.
  - They get issued dirty or holy clothes, and state washes their clothes and loses them
  - This impacts self esteem
- People that have money may have an easier time working with you
  - People can get “canteen” directly at the prison store if they have money in their trust account (books)
  - People can a limited amount of packages from people outside (SPO, Quarterly)
How to be considerate; how “property” affects people. Understanding the Barter System is Important

- People have to make choices and barter to get what they need, it is important to understand that to advocate for them

- People trade “hygiene” items for food and visa versa so they can make it through month

- People buy and sell clothes.
  - People who are newer get new clothes and people who have been there a longer time buy the new clothes.
  - People buy shoes so they have one to dress up (for visits) and one to work in.
  - For a visit, people will buy new tee-shirt and pants (this is a reason it is important to give someone advanced notice of a visit).
People sell the little they have to take care of themselves and prioritize that, instead of writing to family or organizations.

Understand choices people are making when you are trying to write them, or visit them, or advocate for them.

If people don’t feel good about themselves they might not want to visit or fill out forms to advocate for themselves.
How to be considerate: Phone calls.

- When you are receiving a call from general population, there are a few things to consider (if someone is in the hospital, or SHU, or Ad-Seg it is different)

- Access is Limited
  - When someone first arrives (“reception”) they get very few calls and need permission to call.
  - After a while (after “classification”) you may be permitted one 15 minute phone call a day (depends on unit and staff discretion). However, there are recordings that play during the call and interrupt the conversation, so it is more like 10 minutes.

- People can be denied phone access for a disciplinary rules violation.

- Calls are recorded and monitored, so retaliation is a fear.

- Timing is Difficult: There are competitive sign ups for limited slots
  - Morning slots (for people in job or in school) quieter
  - Evening slots 5-8:45pm. These slots are always busy.
How to be considerate: Phone calls.

- Understand how background noise affects you and the caller.
- Make a Plan For How to Approach Background Noise
  - Phones are typically in a noisy area called a day room.
  - Be aware that surrounding the phones are noisy things
    - Other people on the phone: there are 2 phones with a little divider on the left, and then on the right there are another two set of phones
    - The door of the building and people coming and going
    - Couches where people sit and lock
    - Cells being locked and unlocked
    - About 40 people watching a number of loud tvs, and talking to teach other
    - People doing laundry
    - Announcement's on the intercom
How to be considerate: Phone calls.

- Brainstorm ways you can
  - Be patient
  - Speak loudly
  - Ask for repetition
  - Handle the pre-recorded interruptions
  - Make a plan for being cut-off

- Don’t assume what people are saying
  - If unclear or interrupted by noise, ask for repetition
How to be considerate: Sending/Receiving Letters

- Who sends and responds to letters, and who doesn’t?
  - Some people don’t know how to read and write, whether English is their first language or second
  - Some people get help writing letters, so know that someone might be seeing what is written to you or what you are sending

- All letters are opened
  - Regular mail goes through a room of people that process the letters and screen them for contraband
    - People can get disciplined if you send something in that is against the rules, so familiarize yourself with the rules to avoid trouble
  - Legal mail should be opened in front of the person

- Mail is always delayed
  - It can take until Valentine’s day to receive a Christmas card
How to be considerate: Sending/Receiving Letters

Tips:

◦ Stamps are used as cash.
  • This can help someone – you can trade for paperwork or transcripts
  • This also leads to interference with the mail.

◦ You can get 40 stamps in each letter
  • Sometimes they don’t arrive after the mail room processes the letter
  • You should write the CDCR number on the back or they might disappear
  • You can also pre-stamp the envelope
  • You can send an embossed envelope because people can’t use it as money
  • You can mail stamps in for money in some places
How to be considerate: Responding to Letters

- **Expectations: Be clear about expectations**
  - Someone on inside has more time to think about your letter than you might have put in to writing it
  - Their responses might come faster than yours
  - Think about if you ask someone for a document, it can be 10-20 cents per page for them to copy it

- **Content - What to focus on**
  - Think about what points someone is making to you
  - Highlight those points
  - Make those points the paragraphs or bullet points you use to structure your response letter.
What to Know When Sending Letters

Hypothetical Scenario: What Language to Use

What would you suggest in this situation:
- A woman has been incarcerated for 30 years.
- She recently received a 15 year parole denial (the longest time allowed).
- Now she is determined to represent herself in a parole hearing.

How would you convey advice and respect at the same time over mail?

Ideas
- Try to meet in the middle, try to meet person with their passion, be gentle but helpful, try suggesting other avenues. Don’t be condescending.
- Try suggesting other things with gentle language, such as
  - Have you considered asking for an outside observer such as __ from __ organization.
  - Maybe you could arrange for someone, such as __ to give you advice on the break.
What to Know When Sending Letters Hypothetical Scenario: What Language to Use

If someone is making demands that you can’t meet or don’t want to meet:

- Can let the person know that they should consider how you are trying to meet their needs (you can explain what you are doing)
- You can also share whether you think you can or can’t meet those needs

If someone is angry with you and writes it in a letter:

- Focus on the ways you are trying to meet the needs, focus on ways of finding solution, ask them to “help me help you”
What to Know When Sending Letters
Hypothetical Scenario: Things to Avoid

- Statements that can seem judgmental
  - Don’t say, “are you sure,” “is that what really happened,” “is that in your own words”
  - Say instead, something that is a perception check
    - If someone says “the sky is blue” then you say “did you just say the sky is blue”
How to be considerate: Family/Social Visits

- Prepare for everyone to feel awkward, think about ways to mitigate this
  - You’re at a tiny miniature table sitting uncomfortably low to the ground
  - It is very loud, so you may have to repeat things
  - It is not private, many people are listening
  - Other folks getting visits or working as porters may ask for things that make you or your family uncomfortable
    - Buying food
    - Visiting with their loved ones

- Searches
  - People in custody are stripped searched before and after the visit, and during the visit if they go to the bathroom, this can be traumatizing or normalized depending on the person.
How to be considerate: Family/Social Visits

Tips

◦ You can acknowledge some of the uncomfortable or unjust rules to get the weirdness out of the way.
◦ Avoid commenting about the way you think someone else is experiencing them (like bathroom policies).
◦ Follow the lead of what the person you are visiting does, if they bring it up, then acknowledge it.
How to Be Considerate: Visits

- Training materials on Legal and Social Visits
Solidarity Work with People in Prison

- Goals: being mindful about privilege and difference, breaking down barriers and power imbalances, celebrating differences in expertise, honoring lived experience
  - Ethical obligation not to discriminate, CA State Bar Rules of Professional Conduct: Rule 2-400 (B) (1) (2)
- Contrast solidarity with charity work
- Justice Now centers people most directly impacted by the PIC (concerns, solutions, strategies)
- To engage in systemic change work, people often need targeted direct services. Listen to what people need rather than pushing your agenda.
Meeting People in Conversation: Legal Visits

- Be respectful of the visitor’s time
  - Always send a letter to let someone know you are coming so they can prepare.
  - Wear clothing that communicates a respect for the person and their time.
  - Prepare to let the person you are meeting direct the conversation as much as possible – unexpected new developments may be most important to them.

- Planning – Show the person you are prepared
  - Make an agenda and communicate it (time, topics, etc.)
  - Leave time at the beginning for
    - Offering a hug if someone wants it. Take the lead from them and don’t touch someone without asking!
    - Buying food and drink for the person you’re meeting (not allowed at all prisons).
    - Allowing the person to choose where they sit at the table.
  - Leave some time at the end for
    - An emotional check in
    - Listing action items for both you and the person you are meeting
    - Making sure the person knows how to reach you (name, address, collect call #, office hours, etc.)
Meeting People in Conversation: Legal Visits

- Prioritize building trust and a rapport to help ease the conversation and strengthen the relationship.
  - Active listening
  - Offering food/drink
  - Sharing why you do this work
  - Being aware of your language/tone
  - Guiding the conversation only when needed
  - Deferring to the expertise of the person you are meeting

- Opportunity to exchange confidential legal documents and information, since phone and mail are monitored.
  - Ethical duty to protect confidentiality: ABA Model Rule 1.6, California Business and Professions Code § 6068, NFPA’s Model Code of Ethics EC 1.5

- Don’t forget to sign release forms, and be clear about why!

- Non Contact Visits
  - Sometimes staff put you in booths where they can overhear you, and the conversation is not at all confidential. Plan for these illegal conditions accordingly.
  - Staff go through your papers to make sure there are no staples and paperclips.
Legal/Confidential Mail

- Return address must have:
  - Attorney name, title, and state bar number
  - Address matching address of record on CA Bar website
  - Marked clearly CONFIDENTIAL LEGAL MAIL

- Legal mail includes:
  - Correspondence about the visit, both before and after (e.g., request for visit, confidentiality notice)
  - Legal research (e.g., court cases or motions)
  - Correspondence about specific conditions, follow up items from visit

- Legal mail does not include:
  - Books, newspapers, or media articles
  - Correspondence from third parties
  - Money or stamps
Legal/Confidential Mail

- Best way to send confidential or sensitive documents
- All must look professional – colored paper or pictures may trigger closer inspection or be confiscated
- Be considerate
  - Personalize the letter
  - Be clear what support you can and cannot offer
  - Give referrals and resources if you cannot give advice
  - Include a stamped return envelope
- Return paperwork sent to you and keep copies on file
- Legal mail may be delayed longer than social mail (must be logged)
- Social mail can help build your relationship
  - Booklets of stamps
  - Birthday cards
  - Stationery
  - Pictures
  - And more
Important Regulations

- [Link](http://www.cdc.gov/Regulations/Adult_Operations/docs/Title15-2015.pdf)
- California Code of Regulations, Title 15
- Chapter 2
  - Article 4 Mail
  - Article 6 Legal Documents
  - Article 7 Visiting
- Chapter 4
  - Article 2 Use of Telephone
Ethics & Elimination of Bias
ABA Model Rule 1.6 Confidentiality Of Information

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

◦ (1) to prevent reasonably certain death or substantial bodily harm;
◦ (2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;
◦ (6) to comply with other law or a court order...

(c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client
Duty of Confidentiality, cont’d

California Business and Professions Code § 6068 It is the duty of an attorney to…:

- (e)(1) To maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client.
- (2) Notwithstanding paragraph (1), an attorney may, but is not required to, reveal confidential information relating to the representation of a client to the extent that the attorney reasonably believes the disclosure is necessary to prevent a criminal act that the attorney reasonably believes is likely to result in death of, or substantial bodily harm to, an individual.
Paralegal Rules Regarding Confidentiality

- Paralegals are bound by the same rules as their sponsoring attorneys.
- **NFPA’s Model Code of Ethics EC 1.5**
  - A paralegal shall preserve all confidential information provided by the client or acquired from other sources before, during, and after the course of the professional relationship.
- Attorney–client privilege of confidentiality only exists when working under the direction of an attorney.
- Communications between paralegal and sponsoring attorney are protected.
ABA Model Rule 1.18: Duties to Prospective Client
- You have obligations to individuals with whom you consult but never establish a lawyer-client relationship

ABA Model Rule 1.3 Diligence
- A lawyer shall act with reasonable diligence and promptness in representing a client.
- No unreasonable delay

DO NOT make promises you cannot keep
CA Business and Professions Code §6068 (h).

It is the duty of an attorney to do all of the following:

- (h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.
Is there an ethical duty to provide pro bono legal assistance?

*County of Tulare v. Ybarra (1983) 143 Cal App 3d 587*

The Court of Appeal held that the trial court erred by not appointing counsel to represent defendant, even though appointed counsel would be required to serve gratuitously, pro bono publico, absent legislative authorization of payment of fees from public funds.
Urges all attorneys to devote at least 50 hours per year to provide or enable direct delivery of legal services without expectation of compensation other than reimbursement expenses

- To indigent individuals
- Non-profit organizations with a primary focus of providing services to the poor or on behalf of the poor or disadvantaged,
- Not-for-profit orgs with a purpose of improving the law and the legal system, or increasing access to justice
Urges all law firms and governmental and corporate employers to promote and support involvement of associates and partners in pro bono and other public service activities by counting all or a reasonable portion of their time spent on these activities, at least 50 hours over year, toward their billable hour requirements, or by otherwise giving actual work credit.
CA State Bar – Pro Bono Resolution

- Urges all law schools to promote and encourage participation of law students in pro bono activities, including requiring any law firm wishing to recruit on campus to provide written statement of its policy, if any concerning the involvement of its attorneys in public service and pro bono activities.
Urges all attorneys and law firms to contribute financial support to not-for-profit orgs that provide free legal services to the poor, especially those attorneys who precluded from directly rendering pro bono services.
ABA Model Rule 6.1

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

(a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:

(1) persons of limited means or
(2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and
ABA Model Rule 6.1

- (b) provide any additional services through:
  - (1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;
  - (2) delivery of legal services at a substantially reduced fee to persons of limited means; or
  - (3) participation in activities for improving the law, the legal system or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.
Does an attorney owe a lesser ethical duty to a pro bono client?

- In CA the answer is **No**.
  - An “…argument [that] presupposes that pro bono clients deserve less diligent services that paying client, [is] a proposition that undermines the integrity of the legal profession.”

*Segal v. State Bar of California (1988) 44 Cal 3d 1077, 1084*
Rule 2-400 (B)(1)(2) Prohibited Discriminatory Conduct in a Law Practice

- CA State Bar Rules of Professional Conduct: Rule 2-400 (B) (1) (2)
  - (B) In the management or operation of a law practice, a member shall not unlawfully discriminate or knowingly permit unlawful discrimination on the basis of race, national origin, sex, sexual orientation, religion, age or disability in:
    - (1) hiring, promoting, discharging, or otherwise determining the conditions of employment of any person; or
    - (2) accepting or terminating representation of any client.
Rule 2-400 (B)(1)(2) Prohibited Discriminatory Conduct in a Law Practice

In order for discriminatory conduct to be actionable under this rule it must:

- First be found to be unlawful by an appropriate civil administrative or judicial tribunal under applicable state or federal law.

A disciplinary investigation or proceeding for conduct may be initiated and maintained, if such conduct warrants discipline under California Business and Professions Code section 6068.
Incarceration impacts everyone differently, and is influenced by culture.

Everyone will feel differently when preparing for release and upon release:
- Some people will be more talkative, some people will be more like “what happens in the house stays in the house”
- Some people will feel the system owes them
- People will all have different approaches to rebuilding connections with
  - People who are different than them
  - Formerly incarcerated peers
    - A lot of people want to forget about prison and don’t want anyone to know they experienced prison, there is a lot of shame, people don’t want to be reminded
Being Considerate: Re-entry

- Write people and ask what they need when they’re getting out
  - If you aren’t picking them up, research if there is a program that gives folks clothes.
  - Some places have a trailer (Friends Outside) that people can go to after R&R to get clothes.

- If you’re picking them up, bring clothes!
  - Might be released in prison clothes
  - CDCR charges people to leave with CDCR clothes and items, and you might spend the whole $200 gate money to get out of the gate with clothes and shoes on
People will be doing things they may or may not realize are part of institutionalization:
- looking at their clock or phone for time
- Not leave the house until 5 til, “unlock time”
- trying to get back home before “count time”
- get up from table, put plate at sink, and drop silverware, in that order
- make sure the bedroom is clean before leaving
- Pick one day a week to wash the clothes
Being Considerate: Re-entry. Tasks you might want to offer to help with.

- Filling out money order
- Applying for a job or housing
- Going to grocery store, how to get in line, which line is the right line (in prison there is only one line for every purpose)
- Technology changes
  - Buying someone a phone won’t help if they don’t know how to use it
  - Telling someone to use the internet to apply for a job won’t help if they can’t use computers or don’t know how to use the internet
Being Considerate: Re-entry. Things to think about if someone is in a program.

- Housing can be like prison, and can re-traumatize.
  - Rooms are small and crowded with people from different cultures and in different places with re-entry.
  - There may be loudspeakers in the room that makes announcements
  - There are many new terms and acronyms to learn, and it is hard to know who to trust
    - People won’t know what a “Care coordinator” or a “counselor” is supposed to do

- It is extremely difficult to meet the requirements or conditions of release
  - It is hard to know how long things will take on the outside
  - There is no money to support you moving form a program to your own housing
  - You may get help signing up for GA but then 85% of the money is taken
  - Clothing and transport vouchers or clothing are never available
  - You can’t get the travel passes you need to meet your release conditions
  - Supervised release policy is changing all the time
    - At one point something will take one day, sometimes it will take 10 days
Thank you

- More training materials and our email sign up list are here http://caitlinkellyhenry.com/support/