

# News

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## *update*

### A new season

Welcome to the Spring 2012 edition of our newsletter.

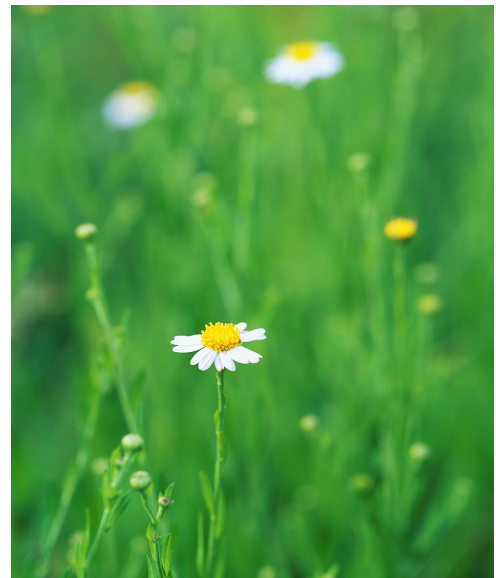
We hope your year is off to a productive start. As a number of changes have been taking place within SCDC, we asked that you inform us immediately in the event you are moved to a new location.

As always, your family is welcome to contact Jackie at [jackie@paroleme.com](mailto:jackie@paroleme.com) if you have any questions about anything in this newsletter or any other issues related to your incarceration.

Please have your family members visit our website, [www.paroleme.com](http://www.paroleme.com), for office forms and other information.

We remind you that this newsletter is not intended to be construed as legal advice.

If we can be of service to you, please contact us. We wish you the best in this new season.



### Angel Tree

If your family has benefited from the Christmas programs offered through Project Angel Tree, please note that their support of the families of inmates is not limited to the Christmas season.

Angel Tree is a project of Prison Fellowship, which offers a variety of programs throughout the year. Many are im-

plemented by local churches. The organizations' web sites, [www.angeltree.org](http://www.angeltree.org) and [www.prisonfellowship.org](http://www.prisonfellowship.org), include many articles and blog posts which may be helpful to your family members. The sites also include information about reentry programs, a community resource directory and more.

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## Case Law Update

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- \* In *State v. Dickey* (Opinion No. 27047 Sept. 26, 2011), the S.C. Supreme Court reversed the Court of Appeals' decision affirming a conviction for voluntary manslaughter on the grounds that the defendant was entitled to a directed verdict on the issue of self-defense. The Court held that the State did not meet its burden of disproving the elements of self-defense beyond a reasonable doubt. The Court also held that deadly force in self-defense is justifiable when 1. the defendant is without fault in bringing on the difficulty; 2. the defendant believed or actually was in imminent danger of losing his life or sustaining serious bodily injury; 3. if the defense is based on the belief of imminent danger, a "reasonable, prudent man of ordinary firmness and courage" would have the same belief; and 4. the defendant had no other probable means of avoiding losing his life or sustaining serious bodily injury.
  - \* In *State v. Jackson* (Opinion No. 4894, Oct. 5, 2011), the S.C. Court of Appeals reversed a conviction for Possession with Intent to Distribute Marijuana, which arose from a traffic stop. The Court held that the defendant's motion for a directed verdict because of his mere presence at the scene should not have been denied. The State failed to present evidence that the defendant had dominion and control of the marijuana.
  - \* In *Lee v. State* (Opinion No. 4901, Nov. 2, 2011), the S.C. Court of Appeals affirmed that PCR court's finding that counsel was not ineffective for failing to obtain a competency evaluation prior to a guilty plea. Though there was sufficient evidence to show a reasonable probability that the defendant was incompetent at the time of the plea (he was later found to have an IQ of 61), counsel could not be found deficient because she had no indication of the defendant's mental status.
  - \* In *State v. Elwell* (Opinion No. 4912, Nov. 23, 2011), the S.C. Court of Appeals held that the trial court erred in finding the State failed to comply with SC Code Section 56-5-2953(A)(2)(d) because the statute does not require videotaping a DUI suspect's conduct during a required 20 minute pre-test waiting period when the suspect has in fact refused to take a breathalyzer test. In this case the dismissal of the charge was reversed.
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## Case law (continued)

\* In *Lozada v. SLED* (Opinion No. 27076, Dec. 12, 2011), the S.C. Supreme Court held that the defendant's crime of unlawful restraint, to which he pled guilty in Pennsylvania, is similar to South Carolina's kidnapping charge in both the public policy behind the charges and in the conduct proscribed under the statutes. As a result, the defendant is required to register as a sex offender in South Carolina.

\* In *Edwards v. SLED* (Opinion No. 27082, Dec. 28, 2011), the S.C. Supreme

Court held that the defendant's 2004 pardon relieved him of the requirement to register as a sex offender. The Court also held that amendments to the code in 2005 and 2008 addressing the registry cannot be applied in this case.

\* In *State v. Odems* (Opinion No. 27084, Dec. 28, 2011), the S.C. Supreme Court held that it is well settled that circumstantial evidence that is

not substantial is insufficient to go to the jury. In this case, the State failed to present substantial circumstantial evidence of the defendant's involvement in any of the crimes charged.

\* In *State v. Cartrette* (Opinion No. 27094, Feb. 22, 2012), the S.C. Supreme Court dismissed as improvidently granted a writ of certiorari granted in the Court of Appeals' decision in this case. The Court of Appeals (Opinion No. 4670, April 5, 2010) held that a Prison Industries Employee was entitled to time-

and-a-half pay for overtime worked, as well as working conditions comparable to those of workers in private industry.

\* In *State v. Coker* (Opinion No. 4945, Feb. 22, 2012), the S.C. Court of Appeals held that probation cannot be revoked solely on the basis of failure to pay money without certain findings of fact as to the willfulness of the failure to pay.



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## Changes at Manning

Effective March 17, Watkins Pre-Release Center was closed. Manning Correctional now houses the pre-release program formerly located at Watkins. The change was made in order to increase dramatically the number of program participants. At Watkins, the maximum number was 200, while as many as 600 will now be able to participate at Manning.



Watkins no longer houses any inmates. It will be used as office space for SCDC.

If you were moved as a part of this change, please notify us so that we can change your address in our system and make sure any correspondence we send is delivered to you without delay.

## Spring package orders

The 2012 Spring Inmate Package Program is underway. Make sure you notify your family and friends since this will be the last opportunity for them to order packages until August.

Orders may be placed online at [www.southcarolinapackages.com](http://www.southcarolinapackages.com). The deadline for online orders is April 20.

Families may also order by mail and phone. Mail orders must be post-marked by April 13. Phone orders may be placed by calling 800-546-6283 by April 20.

If you are purchasing a package for yourself using Cooper Trust Fund money, your procedure is slightly different. You must have your order post-marked by April 13, but you must first secure funds through Cooper by submitting a withdrawal request no later than

March 29, for forwarding to Financial Accounting by April 2. If someone else will be ordering for you, you are still subject to quantity limits, even when placing your own order.

Your disciplinary record is an important factor in whether or not you may order or receive packages.

All inmates are eligible for packages except those on or in

- \* Canteen restriction,
- \* Disciplinary detention,
- \* Intake,
- \* Pre-hearing detention,
- \* Safekeepers,
- \* Security detention, and
- \* Some Kirkland dorms.

Wateree Youthful Offenders may only receive clothing, not food.

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## Intensive supervision for Youthful Offenders

Youthful Offenders within SCDC are now receiving intensive supervision as part of a parole reentry program. The program assigns each offender an Intensive Supervision Officer (ISO) to assist with return to the community and to help young people gain success and avoid recidivism.

Under the program, offenders are assigned to an ISO within 15 days of admission to SCDC. Each ISO handles a caseload of not more than 20 offenders, allowing the opportunity for meaningful interaction. Rather than going to the South Carolina Department of Probation, Parole and Pardon Services for supervision following release, youthful offenders in the program will remain under their ISO's care through the Department of Corrections.

ISOs will evaluate risk, develop and plan post-release services, utilize community resources to reduce the risk of recidivism, maintain frequent contact and hold youth accountable, use intensive surveillance and treatment services, oversee restitution and community service, and ensure their supervisees are free from crime, substance abuse and gang affiliation.

SCDC's Intensive Supervision program is modeled after the nationally recognized Intensive Aftercare Program Model. The model is currently in use in South Carolina's Department of Juvenile Justice. Its success there has resulted in a reduction of the re-offending rate of high-risk juvenile offenders by more than 37 percent.

## Risk assessment



The South Carolina Department of Probation, Parole and Pardon Services has chosen COMPAS by Northpointe Institute for Public Management as its risk assessment software tool.

The adoption of COMPAS as a risk/needs assessment tool is part of the requirement of the Omnibus Crime Reduction and Sentencing Reform Act of

2010 that SCDPPPS use an actuarial risk/needs assessment program to identify offender risk and criminogenic needs (factors that may lead to criminal behavior).

Your family members may be interested in gaining understanding about how this tool is used. To do so, they may visit Northpointe's website at [www.northpointeinc.com](http://www.northpointeinc.com) and view an online tour of COMPAS. This may be helpful to them in understanding factors that sometimes are considered by the parole board.

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**ATTENTION SCDC:** Process as general mail.  
This document does not contain attorney/  
client privileged material.

If you have been transferred to  
a different facility, please notify  
our office of your change of  
address as soon as possible.

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## News and Notes

- \* Just a reminder that our newsletter will not be delivered to inmates who are in lock-up.
  - \* Please note that we may be unable to accept your collect call if Mr. Thomas is not available. This helps keep costs down and benefits our clients in the long run. You are always free to contact us via postal mail or have your family members call or contact our office via email.
  - \* We have received a number of questions regarding the 85 percent rule and whether or not it applies in specific cases. Please note that each criminal offense is classified by CDR code, which determines whether or not the crime is a felony, how it is categorized, etc. The date of your sentencing (before or after June 1, 2010) also affects your parole eligibility for certain offenses. This is a complex issue. If you have questions, please contact our office.
  - \* Please accept our apologies for the interruption in our newsletter production. We recently updated our database software for our clients who are incarcerated and this slowed down our mailing efforts.
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