

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

HUMAN RIGHTS DEFENSE CENTER)

1028 N. Federal Highway)

Lake Worth, FL 33460)

Plaintiff,)

v.)

**United States Department of Health &
Human Services,**)

200 Independence Avenue SW)

Washington, D.C. 20201)

Defendant.)

Civil Action
No.

COMPLAINT

This lawsuit is an action under the Freedom of Information Act, 5 U.S.C. §552, *et seq.*, seeking production of records responsive to requests submitted by the Human Rights Defense Center to the United States Department of Health & Human Services.

JURISDICTION AND VENUE

1. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the defendant under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1331, 2201(a) and 2202.
2. Venue is appropriate in this Court under to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §1391.

PARTIES

3. Plaintiff Human Rights Defense Center is a non-profit charitable organization incorporated in the state of Washington, with principal offices in Lake Worth, Florida.
4. Defendant United States Department of Health & Human Services (HHS) is an agency under 5 U.S.C. §552(f)(1) and 5 U.S.C. § 701.

FACTS

Human Rights Defense Center's Background and Mission

5. The Human Rights Defense Center (previously named Prison Legal News) has spent the last twenty-nine years dedicated to public education, prisoner education, advocacy, and outreach to support the rights of prisoners and to further basic human rights.
6. To accomplish its mission, HRDC gathers information from governmental entities around the country and publishes the information in its journals and on its websites.
7. HRDC publishes and distributes books, magazines, and other information containing news and analysis about prisons, jails and other detention facilities, prisoners' rights, court rulings, management of prison facilities, prison conditions, and other matters about the rights and interests of incarcerated individuals.
8. HRDC publishes two magazines: *Prison Legal News (PLN)* and *Criminal Legal News (CLN)*.
9. *PLN* is a legal journal that reports news and litigation about carceral facilities. *PLN* has

published monthly since 1990 and has subscribers in all 50 states. Based on reader survey results the estimated actual readership is around ten times that number. *PLN*'s subscribers include lawyers, journalists, judges, courts, public libraries and universities. *PLN* also maintains a website that receives around 100,000 visitors per month based on site analytics.

10. *CLN* is a legal journal launched in November, 2017. *CLN* reports on criminal law decisions from the states and federal systems, focusing on legal developments affecting the fact and duration of confinement. *CLN* also covers civil rights litigation against police, prosecutors, and court systems.
11. Through its publishing arm, HRDC also publishes books about the criminal justice system and legal issues affecting prisoners.

The United States Department of Health & Human Services

12. HHS is a cabinet-level department that enhances and protects the health and well-being of Americans.
13. HHS employs over 75,000 people, and has a budget of over \$1 trillion.
14. In order to accomplish its mission, HHS enters into contracts with private entities for certain services and goods.

Request at Issue

15. On December 3, 2018, HRDC sent to HHS via U.S. Mail a FOIA request for past and

active contracts, including amendments, between HHS and the Vera Institute of Justice.

16. Specifically, the letter requested contracts numbered:

- HHSP233200500163U
- HHSP233200900316G
- HHSP233201500041C
- HHSP233201500042C
- HHSP233201500043C
- HHSP233201500044C
- HHSP233201500045C
- HHSP233201500046C
- HHSP233201500084G
- HHSP233201600008C

17. The letter also requested a fee waiver, as HRDC is a media organization.

18. On January 17, 2019, HHS responded via letter informing HRDC that the request was received and assigned case number 19-0114-FOIA.

19. No further information or communication from HHS has been received by HRDC.

20. HRDC never received any documents pursuant to its request.

HRDC'S CLAIM FOR RELIEF

21. HRDC incorporates paragraphs 1 -20 by reference.
22. HHS wrongly withheld documents responsive to HRDC's properly submitted request.
23. HRDC has a statutory right to the records it seeks, and there is no basis for HHS to withhold them.
24. As a result, by failing to release the records specifically requested by HRDC, HHS has violated FOIA.
25. HRDC has a legal right to the responsive documents.

REQUESTED RELIEF

HRDC therefore respectfully requests that this Court:

1. Declare that the records sought by HRDC are subject to FOIA;
2. Order the HHS to disclose the requested records: the documents regarding electronic messaging services and the documents regarding contracts and payments related to release payments for prisoners.
3. Award costs and attorney's fees under 5 USC (a)(4)(E).
4. Grant such other relief as the Court may consider just and proper.

Date: May 28, 2019.

Respectfully submitted,

 /s/Deborah M. Golden _____

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