



HUMAN RIGHTS DEFENSE CENTER

Dedicated to Protecting Human Rights

WWW.HUMANRIGHTSDEFENSECENTER.ORG

Dear Human Rights Defender,

I'm writing to you because I think you understand that securing basic human rights has always hinged on the success of daily battles for civil liberties and human dignity. I think you would also agree that human rights and civil liberties are only truly present when they are available to *all* people, especially the most vulnerable among us.

I founded the Human Rights Defense Center and our monthly magazine, *Prison Legal News*, on these principles, and as a result the organization has focused its efforts on responding to the constant flow of injustices stemming from America's jails and prisons.

As the Russian novelist Fyodor Dostoevsky said, "*The degree of civilization in a society can be judged by entering its prisons.*" That doesn't bode well for this country, where **we have 5% of the world's population and 25% of the world's prisoners.**

With more than 2.4 million people in U.S. prisons, jails and other detention facilities, and approximately another 5 million on probation or parole, **this country has been faced with an unprecedented rate of mass incarceration, the likes of which the world has never seen.** It is what some have called a "Nation Inside"—others have called it "The New Jim Crow."

More than 60 percent of prisoners in the Nation Inside identify as African American or Latino men, despite those demographics making up only 15 percent of the male population in the U.S.

Prison Legal News
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April 2014

An Interview with Noam Chomsky on Criminal Justice and Human Rights

On FEBRUARY 3, 2014, *Prison Legal News* editor Paul Wright interviewed Noam Chomsky, 75, at his home in Lexington, Massachusetts. Professor Chomsky is the foremost dissident intellectual in the United States, and for decades has been a prominent critic of U.S. foreign policy, human rights abuses, imperialism and the media's facilitation of same. He is also one of the world's eminent linguists and has been a professor of linguistics at the Massachusetts Institute of Technology since 1955. He was arrested and jailed for anti-war activities in the 1960s.

The author of dozens of books on politics, media analysis, foreign policy and other issues, Professor Chomsky was also one of *PLN*'s earliest subscribers and has corresponded with Paul on various topics since the early 1990s. However, in his books, essays and interviews, Professor Chomsky has rarely addressed human rights abuses in the United States with respect to policing and prisons—until now.

While Professor Chomsky agreed to be interviewed by *PLN*, scheduling was difficult due to his extensive travel and speaking schedule. It turned out that the day of the interview was also the day a massive snowstorm hit Boston, and he did not come into work. He graciously agreed to conduct the interview at his home, and Paul and *PLN*'s advertising director Susan Schwartzberg made an adventurous cab ride through the snowstorm to his home.

We extend our thanks to Professor Chomsky for this interview and to his assistant, Beverly Stahl, for making the necessary arrangements.

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PAUL WRIGHT: I think one of the things that's interesting is I've been reading your work since I was in high school, and I would say that for at least 30 years now, 30-plus years. I've been reading your work and all the interviews that you've done, and very few people ever ask you about domestic issues.

NOAM CHOMSKY: Really?

PW: Yes. About domestic stuff, in terms of... you know, they ask you about human rights in other countries, but not about human rights in this country. I think you did one interview in the mid-90s which was reprinted in *Prison Legal News*.

NC: There are many. I don't know what happens to them. There are so many, I can't keep track. That's several a day.

PW: Okay. My first question, Professor Chomsky, in the United States

talks about human rights abroad but not domestically. Why is that? Why aren't Americans deemed to have human rights while people overseas are?

NC: Well, first of all, it's not true that people overseas are. We talk about human rights in many states, but we don't talk about them in our own client states. So, for example, complaints, say, Eastern Europe and Latin America. Eastern Europe was Soviet domain in the post-Stalin, post-Second World War period, up until 1990. Eastern Europe was dominated by the Soviet Union. And there's an enormous amount of discussion about human rights in Eastern Europe.

PW: Home, Rights, Watch, the organization, pretty much grew out of Helsinki Watch, which was concerned specifically with Eastern Europe.

NC: Well, what about the U.S. domain during the same period? Say, roughly 1960

Noam Chomsky

Fill out the attached slip to receive a sample issue of PLN!

It is difficult to overstate the impact of institutional racism and classism in the criminal justice system. At every step of the way, from policing, prosecution, sentencing and conditions of confinement to parole and conditions of release, followed by access to housing, jobs, the ability to vote and access to public services, the weight of the police state falls most heavily on minorities and the poor and disadvantaged.

In light of this, we have decided to expand our work in the southern states, including a relocation of our main office to Florida—a mass incarceration state and a stronghold of the private prison industry—and the filing of First Amendment-related lawsuits in states like Georgia and Louisiana, where far-right conservative judges have presented a greater challenge to securing human rights for prisoners.



PLN managing editor Alex Friedmann with ACLU staff and co-counsel at a press conference announcing a lawsuit over a Hawaiian prisoner's death at a CCA-run private prison in Arizona.

I founded HRDC in 1990 in Clallam Bay, Washington when we published the first issue of *Prison Legal News*. Since then, the organization has been on the forefront of struggles to protect the free speech rights of prisoners and bring transparency to the Department of Corrections in Washington, the most secretive of state agencies. Our ground-breaking journalism has included stories on how Microsoft, Boeing, Nintendo, Eddie Bauer and other companies in the Pacific Northwest, as well as former Congressman Jack Metcalf, all used prison slave labor to make a buck or get elected.

I have been a human rights activist and organizer since 1988. Having done this work over the past two decades, I realize there are critical times when a little extra effort will make a huge difference. That's why we're reaching out to you for your urgent support in the year ahead.

HRDC has been called “The best civil rights and social justice organization you never heard of.” But we don't want you to stay in the dark about us any longer. In these pages you will find our 2013 Annual Report detailing what we have been able to accomplish with support from people like you.

You don't have to take our word for it. Keep reading and you will find several recent articles from across the country—from prominent journalists to local small-town papers—that describe our work.

We also want to tell you a little about some exciting successes we have already had this year. Thus far in 2014, our accomplishments include HRDC's crucial involvement in:

- The FCC's long-awaited decision to reduce exorbitant prison phone rates
- Winning the first court case to strike down a jail's postcard-only mail policy
- Working to end discrimination against former prisoners in jobs, housing and education

Further, HRDC and *Prison Legal News* (PLN) successfully ended unconstitutional censorship practices by jails in Ventura County, California; Lewis County, Washington; Comal County, Texas; Kenosha County, Wisconsin; and St. Lucie County, Florida, and we filed suit challenging illegal censorship by

the San Diego County Sheriff. Plus we continued litigating censorship cases against jails in Arizona, Virginia, Georgia, Tennessee and Michigan.

PLN also won public records cases against Corrections Corporation of America in Texas and Vermont, in an effort to bring the private prison industry under state public records laws. In both cases, the courts agreed with our position that CCA was a government actor for public records purposes and the company could not hide behind its private corporate status to claim otherwise. In both cases CCA capitulated and chose not to appeal.

This year, a federal district court in Kentucky also unsealed a confidential settlement between CCA and its employees who were underpaid, after PLN filed a motion to intervene in the case.

HRDC and PLN continue to be in the forefront of cutting-edge First Amendment, free speech and public records litigation around the country, bringing lawsuits against prisons and jails that no one else is filing. **And we are winning!**

In addition to our core litigation around First Amendment and public records laws, HRDC also successfully litigates impact cases involving the deaths of prisoners.

Earlier this year, HRDC settled the wrongful death case of a 26-year-old Hispanic prisoner in Washington State who died of flesh-eating bacteria after prison medical staff ignored his pleas for help. HRDC also filed complaints with state regulatory authorities against the medical staff involved in his death. The settlement we obtained for the family in that case is among the highest in Washington State history involving the death of a prisoner.

HRDC also settled a case on behalf of an African American former prisoner who was 18 years old and five months pregnant while in a jail run by the private prison contractor Corrections Corporation of America (CCA) in Tennessee, when she began to suffer severe cramps and bleeding. Rather than transport her immediately to a hospital, CCA staff left her alone, bleeding and pleading for help in a cell for hours. She gave birth prematurely at the hospital and her baby died shortly afterwards. Following several years of hard-fought litigation, CCA agreed to settle the lawsuit over her pain and suffering and the death of her child. The court also entered sanctions against CCA.

These cases highlight the aim of all HRDC litigation. We have a media and political strategy of seeking prison reform and highlighting the injustices and problems in the U.S. criminal justice system, while advocating for systemic change to ensure prisoners have safe, humane and constitutional conditions of confinement.



Every year, dozens of media outlets around the country, including magazines, newspapers and TV and radio stations, report stories from PLN, quote PLN and HRDC staff, cover our press releases and invite us to sit on their panels and programs. While HRDC is relatively small, our media footprint is huge and we have a major impact on news coverage of criminal justice issues. **Just search “Prison Legal News” online to see for yourself!**

We want to increase our media work and expand our capacity to advocate on behalf of prisoners and their families. This includes investigative reporting, media communications, litigation, and legislative and administrative advocacy. The only thing that holds us back is lack of funding.

If you think the work we do makes a difference in the lives of people held in prisons, jails and other detention centers, please make a donation. We receive no government funding.

All donations to HRDC make a difference. If you can become a monthly sustainer and donate a small amount each month, it will go a long way towards expanding our ability to tackle more issues. Even if you cannot afford to make a donation to HRDC, if you know someone who can, please encourage them to do so. You can also support HRDC by purchasing subscriptions to *Prison Legal News* and buying books from PLN.

We can't do all the things we do without you and your financial support. It takes money to advocate for systemic change, reform and justice, and if you believe in the work we're doing—**which is generally not being done by anyone else**—then I hope you'll take a moment to make a tax-deductible donation to HRDC/PLN.

HRDC is a lean and efficient operation, and any donation you make, whether big or small, will have maximum effect and impact. Please make a contribution to support our work. To show our appreciation, you can select from several gift options which are described in the enclosed insert, including a variety of books.

Make a donation of \$100 or more and we'll mail one of our books to a prison library on your behalf!

Thank you for your support, and best wishes for the upcoming holidays.

In Struggle,



Paul Wright
Executive Director, HRDC



HRDC Executive Director Paul Wright, testifying before the FCC on the high cost of prison and jail phone calls.

P.S. – Even if you cannot make a donation at this time, please let your friends know about HRDC and PLN, and encourage them to support our work!

You can mail a check or money order to:

Human Rights Defense Center, P.O. Box 1151, Lake Worth, FL 33460

Or call HRDC's office at 561-360-2523 and use your credit card,

Or visit HRDC online at www.humanrightsdefensecenter.org and click on the donation link.

Remember — the **Human Rights Defense Center (HRDC)** is a Section 501(c)(3) non-profit organization, and donations are tax deductible!

Yes! I want to help support HRDC — here is my special donation of:

_____ \$25 _____ \$50 _____ \$100 _____ \$250 _____ \$500 _____ \$1,000 _____ Other

Note: If you don't want a book premium for your donation of \$100 or more, we'll donate a copy of *The Habeas Citebook* or *Prisoners' Guerrilla Handbook to Correspondence Programs* to a prison library on your behalf.

To subscribe to HRDC's monthly publication, *Prison Legal News*, check here and enclose \$35 for a one-year subscription. For one free sample issue of *Prison Legal News*, check here .



Credit card donors please fill out the following form

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HRDC is a 501(c)(3) non-profit, and your donation is tax deductible to the extent allowed by law. We protect the privacy of our donors; donor names are not reported in our publication or online.



Please complete all applicable information to ensure delivery of any donation gifts. Thank you!

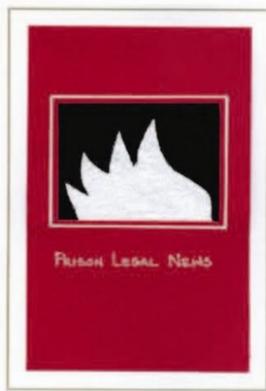
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Organization _____

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Prison Legal News Gifts

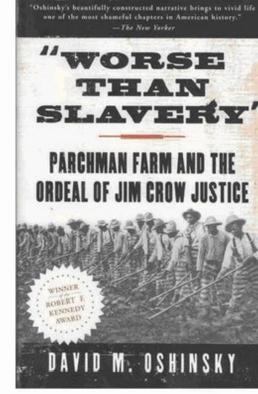
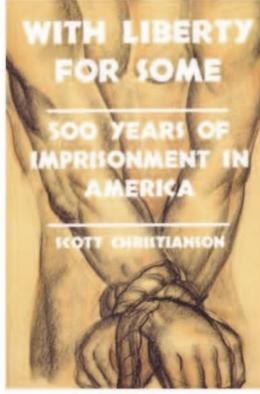
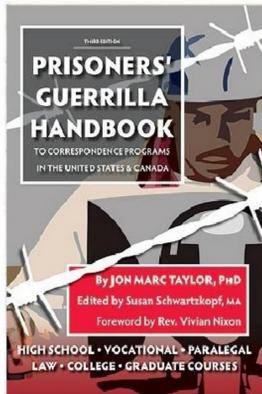
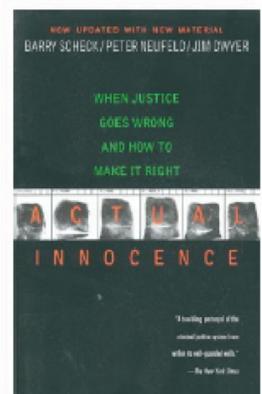
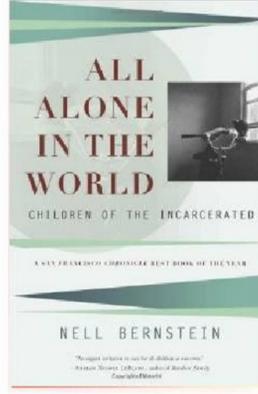
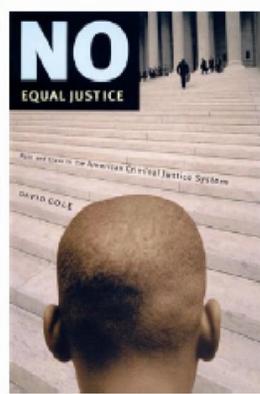
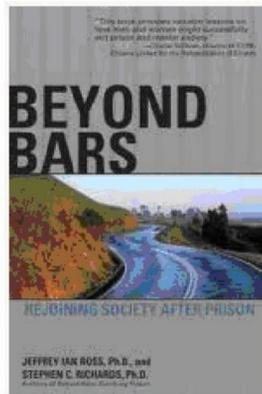
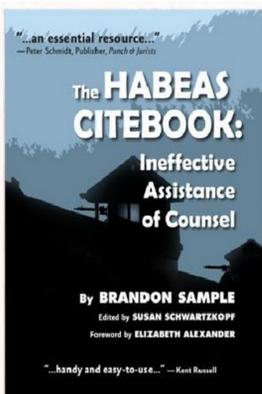


Gift Option 1

To show our appreciation for your support, we are providing a Prison Legal News card when you make a donation of at least \$50.00. The card is hand embroidered by women prisoners in Bolivia who are paid a fair wage for the cards to help support their families.

Gift Option 2

To show our appreciation for your support, we are providing the Prison Legal News hemp tote bag when you make a donation of at least \$75.00. Handmade in Vermont using hemp fiber. Carry books and groceries in style and help end the war on drugs!

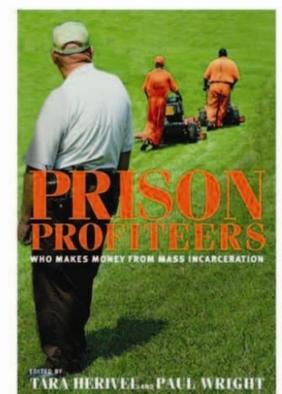
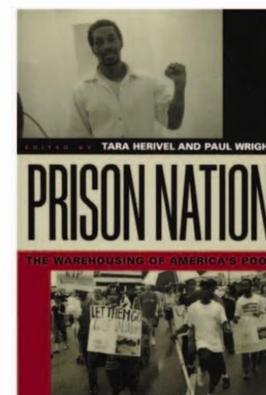
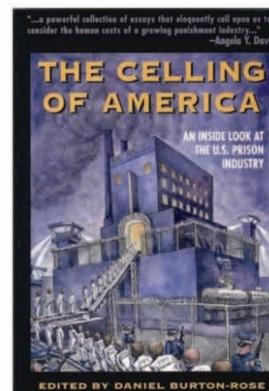


Gift Option 3

To show our appreciation for your support, we are providing the following selection of books for you to choose from when you make a donation of at least \$100.00. Donations of \$100.00 or more can choose one free book title. Each \$100 donation entitles you to another free book; i.e., donate \$500 and you get five books! Donate \$1,000 and you get everything on this page! Please circle the books you want and put the corresponding donation on the next page.

Gift Option 4

To show our appreciation for your support, we are providing the entire Prison Legal News anthology of three critically acclaimed books on mass imprisonment signed by editor Paul Wright! (The Celling of Amercia, Prison Nation and Prison Profiteers), plus the Prison Legal News hemp tote bag to carry the books in when you make a donation of \$250.00.





HUMAN RIGHTS DEFENSE CENTER

2013 ANNUAL REPORT

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Notable Developments

The Human Rights Defense Center, a non-profit 501(c)(3) organization founded in 1990, is the parent organization of Prison Legal News (PLN).

Throughout 2013, in cooperation with the Center for Media Justice and Working Narratives, HRDC co-coordinated and led the national Campaign for Prison Phone Justice, which seeks just and equitable rates for telephone calls made by prisoners. The Campaign successfully urged the Federal Communications Commission (FCC) to take action on the “Wright Petition” to reduce the cost of exorbitant interstate prison and jail phone calls; in a landmark decision, the FCC voted on August 9, 2013 to cap interstate prison phone rates nationwide. The order was released in September 2013 and will go into effect in early 2014.

On April 24, 2013, a federal district court in Oregon entered judgment in PLN’s favor in a suit challenging censorship due to a postcard-only policy at the Columbia County Jail. This was the first time a court had struck down as unconstitutional a jail’s postcard-only policy following a trial on the merits.

HRDC received a substantial award of *cy pres* funds in a class-action lawsuit in Washington State against prison phone companies; as a result of the award, HRDC will be launching its first statewide prison phone justice campaign in Washington.

Additionally, HRDC relocated its office from Vermont to Lake Worth, Florida, and received the Society of Professional Journalists’ First Amendment Award in 2013.

PLN – The Magazine

HRDC’s monthly publication, *Prison Legal News*, reports on corrections and criminal justice-related issues. PLN celebrated its 23rd anniversary on May 1, 2013, continuing its distinction of being the longest-running independent magazine produced by and for prisoners.

PLN published the following cover stories in 2013:

- Sharon Dolovich’s insightful examination of the deference that judges give corrections



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Dedicated to Protecting Human Rights

September 2013

Prison Rape Elimination Act Standards Finally in Effect, but Will They be Effective?

by Alex Friedmann

“Sexual abuse is not an inevitable feature of incarceration. Leadership matters: Inmate correctional administrators can create a culture within facilities that promotes safety instead of one that tolerates abuse.” – National Prison Rape Elimination Commission

A REPORT RELEASED BY HUMAN RIGHTS WATCH in 2011, titled “No Escape: Male Rape in U.S. Prisons,” served as a catalyst which, in conjunction with increased public awareness about the issue of prison rape, led numerous organizations to lobby for federal legislation to address the dilemma of sexual abuse behind bars.

Michael J. Horowitz, a senior fellow at the Hudson Institute, garnered support for the legislation from a number of conservative and evangelical organizations – particularly Prison Fellowship, founded by former special counsel to President Nixon (and ex-federal prisoner) Charles “Chuck” Colson.

Groups from opposite ends of the political spectrum joined together to back the bill, including Just Detention International (formerly Stop Prisoner Rape), the NAACP, Amnesty International, National Council of La Raza, Concerned Women for America, the Salvation Army, Penal Reform International and Focus on the Family.

For some, legislation to protect prisoners from sexual abuse was preferable to curtailing their legal rights. According to a 2002 article in the *National Review*, “While some on the left – most prominently the group Human Rights Watch – have proposed anti-prison-rape solutions such as expanding prisoners’ rights to sue corrections officials, the new proposal represents a reasonable middle-ground solution.”

The lead sponsors of the bipartisan bill, entitled the Prison Rape Elimination Act (PREA), included Senator Jeff Sessions and Rep. Frank Wolf, both Republicans, and Democrats Senator Edward Kennedy and Rep. Bobby Scott.

When PREA was passed by Congress by unanimous consent and signed into law by President George W. Bush on September 4, 2003, some of the bill’s supporters may have envisioned that it would provide a timely response to redress the serious problem of prison rape and sexual abuse.

Unfortunately it would be another ten years before the PREA standards went into effect.

The Long Road to PREA Standards GRANTED. DURING THE DECADES IT TOOK to implement PREA, much was done to formulate the standards to ensure they meet their laudable goal of eliminating prison rape. The eight-member National Prison Rape Elimination Commission (NPREC), chaired by District of Columbia U.S. District Court Judge Reggie B. Walton, was established in June 2004 – around seven months after the 60-day deadline specified by PREA, which is codified at 42 U.S.C. §§ 15601-15609.

While the Commission had subpoena power to collect information to fulfill its mandate to develop draft PREA standards, that power was not all-encompassing. When signing PREA into law, President Bush issued a signing statement that specified the executive branch of the federal government could “withhold information when its disclosure could impair deliberative processes of the Executive or the performance of the Executive’s constitutional duties.” This served as an exemption to the NPREC’s “right of access to any Federal department or agency information it considers necessary to carry out its duties.”

Over the next three years the Commission held eight public hearings and one public meeting that included testimony from “corrections leaders, survivors of abuse, health care providers, researchers, legal experts, advocates, and academics.” Based on that testimony and information received during two public comment periods, the Commission released draft PREA standards for immigration detention facilities and adult prisons and jails on May 5, 2008, and draft standards for lockups, juvenile

officials, “Forms of Judicial Deference in Prison Law”

- A profile of for-profit prison company LaSalle Corrections, which operates facilities in Louisiana and Texas, by Matt Clarke
- Systemic abuses in Los Angeles County’s jail system that resulted in lawsuits, a federal investigation and eventual reforms, by Mike Brodheim and Alex Friedmann
- Derek Gilna’s examination of U.S. immigration policy, including privately-operated immigration detention facilities
- A survey of prison visitation programs in all 50 states by Chesa Boudin, Trevor Stutz and Aaron Littman
- “Slowly Closing the Gates: A State-by-State Assessment of Recent Prison Closures,” by Christopher Petrella and Alex Friedmann
- Joe Watson’s in-depth look at Arizona’s prison system, including prisoner deaths, pardons and prison privatization
- “An Innocent Man Speaks” – PLN editor Paul Wright’s interview with Jeff Deskovic, who was wrongfully convicted of murder and eventually exonerated

- An examination of the history of the Prison Rape Elimination Act and the long-delayed implementation of PREA standards, by Alex Friedmann
- Prisoner deaths in San Diego County's jail system, by Dave Maass and Kelly Davis with *San Diego CityBeat*
- An argument for more mainstream media coverage of criminal justice-related issues, by Dan Froomkin
- PLN's second comprehensive examination of the prison phone industry, with updated state-by-state prison phone rates and commission data, by John Dannenberg and Alex Friedmann

Due to an increase in PLN's advertising revenue in 2013, *Prison Legal News* expanded to 64 pages. PLN works hard to maintain first-rate advertisers that offer quality services and products of interest to prisoners and their families. We have a target of 25% ad content to 75% news, editorial and legal content.

PLN distributed over 25,000 free sample issues in 2013 via direct mail and at conferences and other events. PLN has approximately 9,000 subscribers in all 50 states; an estimated 70% of our subscribers are incarcerated. PLN's print readership is around 90,000 based on reader surveys that indicate 10 people read each copy of PLN.

PLN continued to receive a large volume of mail throughout 2013. The majority of this correspondence was from prisoners, with many requesting legal assistance or sending us news clippings, court decisions and other items of interest. Due to this large amount of mail, PLN is unable to respond to everyone who contacts us.



Book Distribution

Book Sales

HRDC offers a wide variety of books of interest to prisoners, including hard-to-find works on criminal justice topics as well as self-help legal resources designed to help prisoners who are litigating their own cases.

HRDC added several new legal reference and self-help titles to our book list in 2013, including *Nolo's Plain-English Law Dictionary* and *Complete GED Preparation*.

Book Publishing

PLN Publishing seeks to publish quality nonfiction reference books that provide prisoners and their advocates with reliable, timely and accurate information they can use to help themselves and improve their lives. We offer the highest author royalties in publishing: 10% of the sales price of each book sold.

Our goal is to produce a new title every year; previous books published by PLN include *The Habeas Citebook: Ineffective Assistance of Counsel* by Brandon Sample, and the *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada* (3rd Ed.), by Jon Marc Taylor and edited by Susan Schwartzkopf. PLN did not publish any new book titles in 2013.

PLN and HRDC Websites

During 2013 we further developed and expanded PLN's website by increasing its content and usability. The website is a continuing work in progress as we strive to improve the user interface, search functionality and other features. PLN's site (www.prisonlegalnews.org) receives over 100,000 visitors per month and has become a significant resource for media and community outreach and public education on criminal justice issues.

PLN's website currently has over 17,300 news and law articles in its searchable database. The publications section has more than 5,500 reports, audits and other documents related to criminal justice topics, and our brief bank contains over 7,200 assorted legal pleadings – including complaints,

motions, appeal briefs, verdicts, judgments and settlements in prison and jail cases.

Due to the proliferation of websites that offer free access to published court rulings, we have stopped loading new published court decisions into our site and instead are only loading unpublished court rulings that are otherwise not available or difficult to find elsewhere.

HRDC's website also was expanded and improved in 2013. We began preparing in 2013 to transition the websites for both PLN and HRDC to new and updated sites – a process that is expected to be complete in mid-2014.

HRDC Staff

HRDC's executive team includes Paul Wright, executive director and editor of PLN; Alex Friedmann, associate director and managing editor of PLN; chief financial officer Susan Schwartzkopf; and litigation project director and general counsel Lance Weber.

In June 2013, the Human Rights Defense Center moved its office from Brattleboro, Vermont to Lake Worth, Florida. While HRDC's executive team remained the same, new full-time office staff were hired – including Robert E. Jack, staff attorney; Judith Cohen, office manager; Jeff Antoniewicz, paralegal; David Ganim, prison phone justice director; Maricela Garcia, research and office assistant; and Frances Saucedo, office assistant. Carrie Wilkinson was hired in late 2013 as HRDC's prison phone justice director for Washington state.

HRDC Board of Directors

Dan Axtell – Mr. Axtell is a computer professional and human rights activist.

Rick Best – Rick Best is a not-for-profit consultant working primarily in financial management. He also practices law and is part of the legal team litigating civil rights violations arising out of the mass arrests during the 2004 Republican National Convention in New York City. He served two years in federal prison for draft resistance during the Vietnam War and was Executive Director of the National Lawyers Guild from 1992-1995.



Bell Chevigny – Bell Chevigny is professor emerita of literature at Purchase College, SUNY. She has served on the PEN Prison Writing Program for nearly twenty years, three of them as chair. The Prison Writing Program offers an annual literary competition to incarcerated men and women nationwide. With the support of a Soros Senior Justice Fellowship, she compiled *Doing Time: 25 Years of Prison Writing*, a PEN American Center Prize anthology. She has written extensively about incarcerated authors and their literary works.

Howard Friedman – Howard Friedman is the principal in the Law Offices of Howard Friedman P.C., a civil litigation firm in Boston, Massachusetts. Howard's practice emphasizes representing plaintiffs in civil rights cases, particularly cases involving law enforcement, including police misconduct and prisoners' rights litigation. Howard began his career in 1977 as a staff attorney at the Prisoners' Rights Project in Boston. He is the past President of the National Police Accountability Project of the National Lawyers Guild and served as chair of the Civil Rights Section of the Association of Trial Lawyers of America (now the American Association for Justice). He is a graduate of Northeastern University School of Law and Goddard College.

Mike Godwin – Mike Godwin is an attorney and author specializing in free speech and intellectual property issues.

Judy Greene – Judith Greene is a criminal justice policy analyst and the founding director of Justice Strategies. Previously she was the recipient of a Soros Senior Justice Fellowship. She has served as a research associate for the RAND Corporation, as a senior research fellow at the University of Minnesota Law School and as director of the State-Centered Program for the Edna McConnell Clark

Foundation. From 1985 to 1993 she was Director of Court Programs at the Vera Institute of Justice.

Sheila Rule – Sheila Rule is co-founder of the Think Outside the Cell Foundation (www.thinkoutsidethecell.org). The foundation works to end the stigma of incarceration and offers programs for those who live in the long shadow of prison. She began working with this population in 2001 when she joined the Riverside Church Prison Ministry in New York City and was asked to correspond with incarcerated men and women. Inspired by their rich potential, she started the publishing company Resilience Multimedia to publish books that present a fairer image of those who have spent time behind bars. She is also on the board of Good Shepherd Services, a leading New York social services agency serving vulnerable children and families. She was a journalist at *The New York Times* for more than 30 years, including seven as a foreign correspondent in Africa and Europe, before retiring so she could embrace her current work.

Peter Sussman – Peter Sussman is an author and freelance journalist, and was a longtime editor at the *San Francisco Chronicle*. He has received numerous awards for his advocacy of media access to prisoners. He is the co-author, with prison writer Dannie M. Martin, of *Committing Journalism: The Prison Writings of Red Hog*, and wrote a chapter on the media and prisons in *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*, edited by Marc Mauer and Meda Chesney-Lind.

Bill Trine – Bill Trine has been a trial lawyer for the people for 50 years, and a past president and founder of Trial Lawyers for Public Justice (TLPJ), past president of the Colorado Trial Lawyers Association and on the board of other trial lawyer groups. Bill has been the senior partner in his own law firm for many years and presently is in the process of trying to retire to do more writing and teaching. He started a national prison project through TLPJ in 2005 and has been plaintiff's counsel in prison cases for several years, including numerous lawsuits arising out of a riot at a privately-operated prison in Crowley County, Colorado. Bill helped start the Gerry Spence Trial Lawyers College in 1994 and has

been on the faculty and a member of the College's board since its beginning.

Paul Wright – Paul Wright is the editor of *Prison Legal News* and founder of the Human Rights Defense Center and its predecessor organization, Prisoners' Legal News. He is responsible for PLN's editorial content and HRDC's public advocacy and outreach efforts and fundraising. Mr. Wright was incarcerated for 17 years in Washington State's prison system; he was released in 2003.

Funding in 2013

HRDC received foundation support from the Open Society Institute, Funding Exchange, Irvin Stern Foundation and Sonya Staff Foundation in 2013. Foundation support and individual donations made up approximately 35% of HRDC's annual revenue, with the remainder coming from PLN subscriptions, book sales and advertising revenue, plus HRDC's litigation project.

PLN subscription revenue in 2013 was over \$105,000, and advertising income increased to approximately \$125,000. HRDC's book sales generated around \$85,000 in revenue.

Additionally, HRDC was awarded a total of \$1 million in *cy pres* funds in a Washington State class-action suit related to state law violations by prison phone companies between 1996 and 2000. The lawsuit, *Judd v. AT&T*, resulted in a \$46 million settlement in January 2013, which included millions of dollars in unclaimed funds for class members who had died while the case was pending or who could otherwise not be located. Dozens of non-profit organizations applied for these *cy pres* funds, and the state court granted HRDC two awards of \$500,000 each in April and August 2013.

This was HRDC's first request for *cy pres* funds in a class-action lawsuit. The original plaintiffs in the *Judd* case included HRDC executive director Paul Wright's then-wife and former HRDC board member Sandra Judd, former HRDC board member and attorney Tara Herivel (who co-edited two of PLN's mass incarceration anthologies) and Paul's mother Zuraya Wright – whose claims were dismissed because they related to long distance rather than in-state prison phone calls.

HRDC will use the *cy pres* awards to establish its first statewide prison phone justice campaign in Washington State, with the goal of eliminating prison phone “commission” kickbacks and reducing in-state prison and jail phone rates. HRDC began developing the campaign and making arrangements to re-open our Seattle office in late 2013.

Activism & Advocacy

HRDC staff engaged in a number of activism and advocacy efforts in 2013, to effect reform in our nation’s criminal justice system and to educate the public, policymakers and mainstream media about criminal justice and prison-related issues. These efforts included:

- A three-book series, *Prison Privatization: The Many Facets of a Controversial Industry*, published in late 2012, included information from interviews with HRDC executive director Paul Wright and associate director Alex Friedmann. Prison Legal News was profiled in a chapter titled “Grassroots Efforts Against Private Prisons.”
- Millionaire media magnate and former federal prisoner Conrad Black’s latest book, *A Matter of Principle*, published in late 2012, was dedicated to Paul Wright as a “loyal American friend.” PLN had published an exclusive interview with Conrad Black in September 2012.
- On January 5, 2013, former HRDC prison phone justice coordinator Mel Motel was interviewed on “Reel Talk Radio” on KJCB 770 AM in Lafayette, Louisiana about the Campaign for Prison Phone Justice.
- Mel Motel and Paul Wright were guests on “The 9 O’Clock Show with Bill Newman” on WHMP 96.9 FM in Northampton, MA on January 9, 2013 and discussed the Campaign for Prison Phone Justice. Mel also was a guest on the “Crossroads Radio Show,” WPFW 89.3 FM in Washington, DC on January 15, 2013, and discussed the Campaign.



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The Too-Many Prisoners Dilemma

Prisons are a vast, undercovered but important beat. Why we need more criminal justice coverage

by Dan Frookin

THERE'S A GROWING NATIONAL CONSCIOUSNESS that, as Attorney General Eric Holder stated in August, "too many Americans go to too many prisons for far too long, and for no truly good law enforcement reason."

When Holder proceeded to order federal prosecutors to stop triggering mandatory minimum sentences for some nonviolent drug offenders, that was big news. But where were the follow-up stories?

It's a familiar cycle. Despite the heavy toll that mass incarceration exacts every day and in countless ways on many American communities, families and of course the incarcerated themselves, the topic attracts remarkably little consistent coverage in the mainstream media.

"Traditionally, the coverage of this has been crisis driven," says Ted Gott, the founder of Criminal Justice Journalists, who also oversees a daily news digest for The Crime Report news service.

Recently, a hunger strike in California and other protests called renewed attention to solitary confinement as a human rights issue. And questions about oversight were briefly raised after Baltimore jail guards were busted in April 2013 for allegedly helping a charismatic gang leader, who impregnated four of them, run his drug and money-laundering operations.

David Fathi, director of the American Civil Liberties Union's National Prison Project, says he's seen only a modest increase in news coverage of criminal justice reform despite his sense that the nation is starting to turn the corner on mass incarceration. "I've been doing this work since 1990 and there's been no time that things have looked this hopeful for significant reform in the criminal justice system," he says.

The policy debate has also gotten more compelling recently, for other reasons. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* – an explosive book published in 2010 – made it impossible to avoid confronting the central role of race in a system that author Michelle Alexander wrote has systematically subjugated poor people of color. And the rise of privately owned prisons has raised troubling questions about injecting a profit motive into issues of justice.

The numbers involved are, by any standard, astronomical: 2.3 million Americans, or 1 in about 140, are in custody at any given moment, the highest incarceration rate in

the world, six times what it is in Canada – or China, or Iraq, for that matter.

The total number of Americans under correctional control is 7 million – or more than 1 in 50 – if you include people on parole or probation. That's more than the entire state of Massachusetts.

Almost half of all federal prisoners – nearly 100,000 people, or enough for a small city – are serving time for nonviolent drug offenses. Add state and jail prisoners, and the total approaches half a million, or enough for a large city.

"Considering that huge number, there's hardly anyone on the beat," Gott says.

Crime and court reporters, still a staple of newscrooms everywhere, tend to see their role as ending after conviction. The number of reporters assigned to cover prisons and criminal justice, even part time, has dwindled due to decades of cuts, beat consolidation and lack of interest.

"They don't see this as an important beat," says Paul Wright, a former Washington state prisoner who founded the highly regarded *Prison Legal News* magazine in 1990, when he was behind bars.

For news organizations to cover the issue properly, Wright says, they need reporters with background, and sources. "Normally well-intentioned or hard-nosed journalists, they tend to take statements by prison officials or government officials at face value, with no type of critical disbelief," he says.

"Too often, no one's being quoted who doesn't have a government paycheck, who doesn't have an investment in mass incarceration," Wright says. Without having developed knowledgeable sources they can contact, he says, "if they're reacting to

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- Paul Wright participated in a video interview on Huffington Post Live on January 15, 2013, regarding private prisons.
- On January 16, 2013, Alex Friedmann and Amalia Deloney, associate director of the Center for Media Justice, co-accepted the Digital Pioneer for Social Justice Award from the Minority Media and Telecommunications Council, on behalf of the Campaign for Prison Phone Justice. FCC Commissioner Mignon Clyburn and Martha Wright – the lead petitioner in the Wright Petition – attended the awards ceremony.
- HRDC submitted comments on January 20, 2013 to the U.S. Commission on Civil Rights regarding the Equal Employment Opportunity Commission’s enforcement guidance for criminal background checks by employers.
- HRDC signed on to a January 24, 2013 joint letter coordinated by Grassroots Leadership calling for the closure of the CCA-operated Dawson State Jail in Texas.

- On January 28, 2013, Alex Friedmann submitted comments to the Tennessee Advisory Committee to the U.S. Commission on Civil Rights on issues related to disenfranchisement and voting rights for ex-prisoners in Tennessee.
- HRDC submitted comments to the New Hampshire House Criminal Justice and Public Safety Committee on January 31, 2013, in support of legislation (HB 443-FN) to prohibit the state from housing prisoners in privately-operated facilities.
- HRDC contributed to a Prison Policy Initiative report on postcard-only mail policies being implemented at jails across the U.S., titled “Return to Sender.” The report, released on February 7, 2013, referenced several PLN lawsuits related to jail censorship issues.
- On February 7, 2013, Mel Motel testified before the New Hampshire House Criminal Justice and Public Safety Committee in support of HB 443-FN, a bill to prohibit prison privatization in that state.
- Paul Wright attended the Students United for Reform and Justice’s Culture Week, held from February 11-14, 2013 at UC Davis Law School in California, and co-presented with Professor Holly Cooper on prison phone-related issues.
- HRDC submitted comments to the Vermont House Committee on Corrections and Institutions on February 13, 2014 in support of H.28 – a bill that, among other provisions, would prohibit the state from housing prisoners in privately-operated facilities.
- On February 14, 2013, HRDC, along with over 200 other organizations, signed on to a joint letter coordinated by the Prison Policy Initiative asking the U.S. Census Bureau to end prison gerrymandering by not counting incarcerated people as residents of the facilities where they are held for census purposes.
- Paul Wright and Mel Motel attended the Rebellious Lawyering Conference (RebLaw) at Yale University on February 23, 2013, and spoke on a panel about the Campaign for Prison Phone Justice.
- HRDC and 25 other organizations signed on to comments submitted by Just Detention International to the U.S. Department of Homeland Security on February 26, 2013 concerning Prison Rape Elimination Act (PREA) standards for immigration detention facilities.
- On February 28, 2013, Alex Friedmann and U.C. Berkeley doctoral student Chris Petrella spoke on Break Thru Radio’s “Third Eye Weekly” about their efforts to have the Private Prison Information Act reintroduced in Congress.
- Paul Wright, HRDC general counsel Lance Weber and former HRDC staff attorney Alissa Hull gave a presentation titled “Defending the First Amendment Against Prison and Jail Censors” at the Benjamin N. Cardozo School of Law in New York on March 11, 2013.
- Alex Friedmann participated in a panel presentation at the First Amendment Center in Nashville, Tennessee on March 15, 2013 as part of the Society of Professional Journalists’ Sunshine Week, on open government issues. Other panelists included Steve Cavendish, editor of the *Nashville City Paper*, and Maria De Varenne, editor of the *Tennessean*. Alex discussed PLN’s public records lawsuit against CCA.
- HRDC signed on to a March 19, 2013 letter submitted to the U.S. House and Senate Judiciary Committees, in support of releasing immigration detainees who do not need to be incarcerated and eliminating ICE’s “bed mandate” to maintain 34,000 detention beds. The joint letter was coordinated by Detention Watch Network.

- Alex Friedmann spoke on March 22, 2013 to the Christian Ethics Society at Belmont University in Nashville, about the private prison industry and divestment campaigns.
- HRDC filed an extensive comment with the Federal Communications Commission (FCC) on March 25, 2013 in support of the Wright Petition, caps on prison phone rates and reform of the prison phone industry.
- HRDC signed on to an April 4, 2013 letter to U.S. Department of Homeland Security Secretary Janet Napolitano, calling for the closure of the Polk County Detention Center, an immigration detention facility in Texas. The joint letter was coordinated by Grassroots Leadership.
- On April 6, 2013, Alex Friedmann and other panelists, including Lee Petro, the attorney representing the petitioners in the Wright Petition, presented at the National Conference on Media Reform in Denver, Colorado about the Campaign for Prison Phone Justice.
- Mel Motel testified at a New Hampshire Senate Finance Committee hearing on April 9, 2013 in support of HB 443-FN – legislation to ban private prisons in the state.
- Paul Wright and Lance Weber gave a presentation on “The Constitutional Right to Communicate with Prisoners” for the Center on the Administration of Criminal Law and The Prisoners’ Rights and Education Project at New York University Law School on April 9, 2013.
- On April 14, 2013, Alex Friedmann spoke about prison privatization at the Brookmeade Congregational Church in Nashville, as part of the church’s Criminal Injustice series.
- Paul Wright participated in an April 17, 2013 Huffington Post video panel on “Jim Crow Prison,” concerning racism in California’s prison system.



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Abuse in Los Angeles Jails Leads to Investigations, Lawsuits and Eventual Reforms

by Mike Brodheim and Alex Friedmann

WITH SEVEN FACILITIES THAT HOUSE from 15,000 to 18,000 prisoners, Los Angeles County’s jail system is the nation’s largest – and, arguably, among the most dangerous in terms of staff-on-prisoner violence.

The jail system, operated by the Los Angeles County Sheriff’s Department (LASD), is facing an investigation by the FBI into allegations of corruption and abuse, as well as multiple lawsuits. Sheriff Leroy David Lee “Buck” 70, has committed to numerous reforms following a report and recommendations by the Citizens’ Commission on Jail Violence, but people familiar with long-standing problems in the county’s jails remain skeptical.

A Continuing Culture of Violence

The LASD jail system has seen intense federal court oversight since the 1970s when, following a 17-day trial, an injunction was issued that ordered the county to improve jail conditions – including overcrowding, inadequate exercise, and lack of clean clothing and telephone access. The American Civil Liberties Union (ACLU) had initially sued Los Angeles County in 1975, alleging that overcrowded conditions, systematic abuse of prisoners by sheriff’s deputies and inadequate medical care violated the Eighth Amendment’s ban on cruel and unusual punishment. See: *Rutherford v. Bush*, U.S.D.C. (C.D. Cal.), Case No. CV 75-04111 DDP. (PLN, March 2007, p.35).

A renewed deterioration of jail conditions led to the reopening of the case in 1984. Since then, a number of court-appointed parties and experts, including the ACLU, have been monitoring conditions within the county’s jail system. Other oversight agencies include the Office of Independent Review (OIR) and Special Counsel to the Los Angeles County Board of Supervisors.

The report cited 70 sworn declarations filed with the district court in *Rutherford v. Bush*. Among the declarations were statements from victimized prisoners, an ACLU monitor, two chaplains and a Hollywood producer, Scott Budnick, who had spent time in the jail for four years, teaching prisoners how to write.

Budnick, who produced the movies *The Hangover* and *The Hangover Part II*, said that he had witnessed deputies restrain and Taser a prone prisoner, and that another

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- Mel Motel was a guest on the Kansas City, Missouri KKFI 90.1 FM radio show “Jaws for Justice” on April 22, 2013, and discussed the Campaign for Prison Phone Justice.
- Alex Friedmann participated in a video interview for the Public Safety and Justice Campaign on CCA’s 30-year anniversary; the interview was posted on the Campaign’s Nation Inside website on April 24, 2013.
- On April 25, 2013, Alex Friedmann spoke about private prisons on the Flaming Sword of Justice, a progressive radio show (www.flamingswordofjustice.com).
- Alex Friedmann was a guest on KBOO community radio in Portland, Oregon on April 26, 2013, and spoke about PLN’s victory in a censorship lawsuit against the Columbus County Jail.
- Mel Motel spoke on the Crossroads Radio Show, WPFW 89.3 FM in Washington, DC, about the Campaign for Prison Phone Justice; other speakers included attorney Lee

Petro and Congresswoman Eleanor Holmes Norton. The show aired on April 30, 2013.

- On May 3, 2013, HRDC staff spoke to nearly thirty-five Vermont 10th graders about the Freedom of Information Act.
- Alex Friedmann presented on “The Political and Societal Impact of the Private Prison Industry” at the Rethinking Prisons conference at Vanderbilt University on May 5, 2013. Other panelists included Sheila Van Ness with the University of Chattanooga and Matt Whitt with Warren Wilson College.
- On May 7, 2013, Alex Friedmann and Chris Petrella were guests on the 4 Justice Now radio show’s “Women Behind the Wall,” and spoke about the Private Prison Information Act.
- PLN assisted with a Prison Policy Initiative report titled “Please Deposit All of Your Money: Kickbacks, Rates, and Hidden Fees in the Jail Phone Industry,” released on May 7, 2013. Alex Friedmann was included in the report’s acknowledgements.
- On May 15, 2013, Alex Friedmann spoke at a community forum in Nashville regarding prison privatization. The event was coordinated by the Tennessee Immigrant and Refugee Rights Coalition (TIRRC), and other speakers included Carl Takei with the ACLU’s National Prison Project, Bob Libal with Grassroots Leadership, Judy Greene with Justice Strategies and representatives from TIRRC.
- HRDC signed on to a May 15, 2013 joint letter to the U.S. Senate Judiciary Committee in opposition to an amendment to a bill that would increase penalties for certain marijuana offenses committed on federal land. The letter was coordinated by the U.S. Advocacy Program of Human Rights Watch.
- Alex Friedmann attended CCA’s annual shareholder meeting in Nashville on May 16, 2013, and participated in a protest outside the meeting. He asked questions of CCA’s board members and requested a moment of silence in memory of a guard who was murdered during a riot at CCA’s Adams County Correctional Center in May 2012. CCA board chairman John Ferguson refused the request.
- Film producer Mark Faulk interviewed Alex Friedmann on May 16, 2013 for an upcoming documentary about the private prison industry.
- On May 18 and 19, 2013, Alex Friedmann spoke on two panels at the National Lawyers Guild’s Southern Conference in Nashville. He discussed prison privatization and felon disenfranchisement; other panelists included Chris Petrella, Azadeh Shahshahani with the ACLU, Desmond Meade with the Florida Rights Restoration Coalition and Sandra Enos with AID Atlanta. Alex also provided an introduction for George Barrett, a celebrated Nashville civil rights attorney.
- Alex Friedmann was interviewed by Brave New Films on June 4, 2013 on issues related to the private prison industry, for the Prison Profiteers video series – a joint project of Beyond Bars, the ACLU and *The Nation* (www.prisonprofiteers.org). He was featured in a video about CCA, Mel Motel appeared in a video on prison phone company Global Tel*Link, and PLN was credited for providing research help for the videos.
- On June 13, 2013, HRDC signed on to a joint letter to the Assistant Secretary of State for International Organization Affairs, urging the U.S. government to extend an invitation to UN Special Rapporteur on Torture Juan Mendez to undertake a fact finding visit to examine, among other things, solitary confinement practices in U.S. prisons. The sign-on letter was coordinated by the ACLU.
- HRDC joined a sign-on letter coordinated by the ACLU on June 14, 2013, asking U.S. Senators to oppose a proposed amendment to the Border Security, Economic

Opportunity and Immigration Modernization Act of 2013, which would allow immigrant detainees to be incarcerated indefinitely with no time limit or opportunity for a bond hearing.

- Paul Wright was one of eight signatories to a joint statement released by the Prisoners Revolutionary Literature Fund on June 16, 2013, against censorship of the *Revolution* newspaper at California's Pelican Bay State Prison.
- From June 19-22, 2013, Paul Wright attended the Allied Media Conference in Detroit, Michigan, which included a network gathering of Nation Inside – one of HRDC's partners in the Campaign for Prison Phone Justice. He gave an update on the Campaign, announced the launch of HRDC's Washington Prison Phone Justice Campaign, participated in a strategic communications workshop with Spitfire Strategies, and presented at a workshop titled "Fighting for Prisoner Communication."
- On June 20, 2013, Alex Friedmann was one of four speakers on a teleconference call to announce the release of a report by Grassroots Leadership titled "The Dirty 30: Nothing to Celebrate About 30 Years of Corrections Corporation of America." The other speakers included Dr. Niaz Kasravi, director of the NAACP's Criminal Justice Program; Grassroots Leadership executive director Bob Libal; and Joshua Miller with AFSCME. Alex assisted with the report and was mentioned in the acknowledgements.
- Alex Friedmann and HRDC prison phone justice director David Ganim attended an FCC workshop on prison phone rates at the agency's headquarters in Washington, DC on July 10, 2013. Alex participated in a panel discussion with National CURE co-director Charlie Sullivan, Virginia Delegate Patrick Hope and several other panelists. Other speakers at the workshop included FCC Commissioner Mignon Clyburn, U.S.

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U.S. Immigration Policy: Dysfunctional, Profitable and Resistant to Reform

by Derek Gilna

THE NATION'S ECONOMY REMAINS FRAGILE. U.S. troops continue to fight a losing war in Afghanistan, North Korea has recently threatened a nuclear attack, and in March 2013 Congress and President Obama failed to reach a compromise to prevent the "sequester," which mandates deep spending cuts on the federal level. Yet issues related to immigration – including immigration reform – still manage to dominate national headlines.

The results of the last presidential election, in which over 70% of Hispanics cast their ballots for Obama, have led many panic-stricken Republican politicians to seek ways to avoid electoral irrelevancy at the hands of an increasing number of His-

panic voters. Consequently, immigration reform is getting serious play in Washington at a time when federal spending on immigration enforcement and border security – estimated at almost \$18 billion in fiscal year 2012 according to a recent report by the Migration Policy Institute – totals more than the budgets of all other federal law enforcement agencies combined, including the FBI, DEA and ATF.

Lawmakers Examine Immigration Reform

ON JANUARY 28, 2013, THE SO-CALLED "Gang of Eight," comprised of eight U.S. Senators – four from each party – released a Comprehensive Immigration Reform (CIR) proposal. Among other provisions, the CIR creates a path to citizenship for certain non-criminal immigrants residing in the U.S. illegally who pass a background check, learn English and pay fines and back taxes. The proposal would also require employers to verify the citizenship status of their workers; create a registration program for undocumented immigrants and a tracking system for immigrants who are legally in the U.S.; and increase border security, including the use of unmanned drones.

"Our legislation acknowledges these realities by finally committing the resources needed to secure the border, modernize and streamline our current legal immigration system, while creating a tough but fair legalization program for individuals who are currently here," the CIR proposal states. The Gang of Eight plans to introduce a bill based on their proposal in April 2013, while a bipartisan group of House members are also reportedly working on a plan for immigration reform.

President Obama has released a draft version of his own immigration reform proposal, which mirrors many of the recommendations made by the Gang of Eight, including a pathway for non-criminal immigrants to become citizens. Previously, in June 2012, Obama signed an executive order that provides two years of "deferred action" on deportation proceedings for undocumented immigrants who were under age 16 when they came to the U.S., have graduated from high school or obtained a GED, do not have a serious criminal record and meet other requirements.

The focus on immigration reform, including discussions about a pathway to citizenship, should be good news for the estimated 11 million undocumented immigrants currently living in the United States. Or perhaps not.

Other major government initiatives to address social problems haven't worked out so well. Prohibition, for example, or its more modern iteration, the "War on Drugs," which was sold to voters as a necessary means of ridding their communities of substance abuse and crime, but quickly morphed into overcrowded prisons, bloated corrections budgets, broken families and innumerable abuses by law enforcement agencies.

Just as marijuana legalization and decriminalization, criticism of mandatory minimums and harsh sentencing guidelines, and disgust with high rates of incarceration for minor non-violent crimes are becoming part of the public dialogue on criminal justice issues in the U.S., the federal government's ongoing battle against undocumented immigrants is taking center stage in political discourse.

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Congresswoman Eleanor Holmes Norton.

- PLN sent letters to Tennessee Department of Correction Commissioner Derrick Schofield on July 16, 2013 and September 19, 2013 regarding racial disparities in honor units at the Northeast Correctional Complex. PLN had filed public records requests to obtain statistical data regarding the racial breakdown of the population in the units, which indicated that black prisoners were disproportionately underrepresented.
- HRDC signed on to a July 22, 2013 joint letter to members of Congress in support of the creation of a task force to review the unprecedented growth of the federal prison system. The letter was coordinated by the U.S. Advocacy Program of Human Rights Watch.
- Film producer Stephen Newton interviewed Alex Friedmann on July 25, 2013 for an upcoming film titled "Outcasts: Surviving the Culture of Rejection." The film addresses the issue of recidivism in Tennessee and is expected to be released in early 2014 (www.cultureofrejection.org).

- Alex Friedmann spoke and answered questions at a forum on criminal justice topics at the Christ United Methodist Church on July 28, 2013 in Franklin, Tennessee.
- On July 29, 2013, Alex Friedmann participated in a protest at CCA's headquarters in Nashville in support of the Dream 9, a group of immigration reform activists who were incarcerated at CCA's Eloy facility in Arizona. The protest action included delivering a letter to CCA vice president Steve Owen.
- On August 5, 2013, HRDC signed on to a joint letter to Immigration and Customs Enforcement to protest ICE's suspension of community-based visitation programs at three detention facilities in Southern California due to public criticism of mistreatment of LGBT detainees. The letter was coordinated by the ACLU of Southern California.
- HRDC and 50 other organizations signed on to an August 15, 2013 letter opposing the construction of a for-profit prison in McAllen, Texas. The joint letter was coordinated by Grassroots Leadership.
- On August 16, 2013, David Ganim attended the 2013 Florida Rights Restoration Coalition convening in Orlando, and networked with other Florida-based organizations working on criminal justice-related issues.
- HRDC submitted a letter to the California Assembly Appropriations Committee on August 26, 2013 in support of Senate Bill 716, to require jails and other detention facilities in California to adopt policies consistent with the national Prison Rape Elimination Act (PREA) standards.
- On August 28, 2013, HRDC submitted a letter to U.S. Senator Patrick Leahy, Chairman of the Senate Judiciary Committee, regarding the federal Bureau of Prisons' plan to transfer female prisoners from a facility in Danbury, Connecticut to a newly-opened prison in Aliceville, Alabama. HRDC expressed concerns about the impact the transfer would have on prisoners' ability to receive visits from their family members.
- Alex Friedmann was a speaker on a September 19, 2013 media call announcing the release of a report by In The Public Interest (ITPI) on private prison bed guarantees. Other speakers included former Oklahoma DOC director Justin Jones, ITPI staffer Shar Habibi, and Michael McBride with Urban Strategies and Lifelines to Healing.
- HRDC and 25 other organizations submitted a joint letter on September 24, 2013 to the U.S. House Subcommittee on Commerce, Justice and Science in support of funding for the Charles Colson Task Force on Federal Corrections, to conduct a review of the rapidly growing federal prison system. The letter was coordinated by Justice Fellowship.
- On October 3, 2013, Paul Wright presented at the Media Justice Criminal Justice Workshop at the Nathan Cummings Foundation in New York City. The event, on media justice and prison phone-related issues, was sponsored by the Center for Media Justice, HRDC, Working Narratives and Alternate ROOTS.
- Paul Wright presented at the Cleveland State University College of Law on October 16, 2013 on "Prisons, Power and Policy in the Twenty-First Century."
- On October 17, 2013, after receiving letters from nine prisoners at the Tennessee Prison for Women, PLN contacted the Tennessee Department of Correction to express concerns about issues raised in the letters, including allegations of sexual misconduct and verbal abuse by prison staff, insufficient toilet paper and sanitary napkins, inadequate medical and dental care, and a lack of comparable programs offered in men's prisons.

- Paul Wright presented at the University of Illinois at Urbana-Champaign on October 18, 2013, on issues related to mass incarceration and socioeconomic disparities in our nation's criminal justice system.
- On October 28, 2013, HRDC and eleven other organizations signed on to a letter submitted to Attorney General Eric Holder regarding efforts by the Department of Justice to remove restrictions that prevent Victims of Crime Act (VOCA) grantees from providing services to victims of violence who are incarcerated. The joint letter was coordinated by the Raising the Bar Coalition, of which HRDC is a member.
- Alex Friedmann attended the National Commission on Correctional Health Care (NCCHC) conference in Nashville from October 28-30, 2013; he attended several panels on prison medical care and took a tour of the Deberry Special Needs Facility. Following the conference, he wrote an article about the use of telemedicine in prisons.
- On November 14, 2013, Alex Friedmann attended a Tennessee Department of Correction Family and Friends Forum in Nashville, questioned state prison officials and spoke with TDOC Commissioner Derrick Schofield about issues of concern in Tennessee's prison system. He also wrote a debrief regarding the event, which was distributed to prisoners and prisoners' family members.
- Grassroots Leadership released a report on prisoners held in out-of-state private prisons, titled "Locked Up & Shipped Away," on November 20, 2013. Alex Friedmann contributed to the report and was mentioned in the credits; the report also referenced two PLN articles.
- PLN sent a letter to the Tennessee Department of Correction on November 26, 2013 to express concern about changes in the prison system's formulary; i.e., the removal of certain medications from the formulary and requiring prisoners to purchase those medications from the prison commissary. PLN noted that 10 of the 14 members of the TDOC committee responsible for the formulary change were employed by private, for-profit contractors, including CCA and Corizon.
- Alex Friedmann was interviewed for the radio program "Making Contact" (www.radioproject.org). The show aired on December 3, 2013 as "2013: The Year the Prison System Changed?"
- On December 5, 2013, Alex Friedmann was a panelist on a live radio program, "Your Call," on KALW public radio in San Francisco. Other panelists included *Palm Beach Post* reporter Pat Beall, *Huffington Post* writer Chris Kirkham and a spokesman for California's prison system. The topic was prison privatization and California's transfer of more than 8,000 prisoners to out-of-state private prisons.
- PLN sent a letter to Tennessee Department of Correction Commissioner Derrick Schofield on December 7, 2013 in reference to the TDOC rebidding its prison phone contract. The letter requested that the TDOC forgo prison phone commissions and base its new prison phone contract on the lowest cost to prisoners and their families.
- Alex Friedmann gave three presentations on private prison-related issues at the Public Safety and Justice Campaign's annual strategy session on December 12, 2013 in Washington, DC. HRDC is a member of the Campaign.

Media Outreach

HRDC continued to make the news in 2013, including articles that mentioned PLN or quoted PLN staff. This media coverage included daily newspapers, magazines, radio programs and TV shows. Further, HRDC issued 13 press releases in 2013. The following compilation of news reports does not include articles about HRDC's litigation and is not a complete list, but is illustrative of media coverage that PLN and HRDC received during the past year:

- A PLN article on prison closures was cited in a *Voice of Detroit* article about Michigan's prison and parole reforms on January 9, 2013.
- On January 23, 2013, HRDC and UC Berkeley doctoral student Chris Petrella were mentioned in a *Huffington Post* article about the Private Prison Information Act.
- HRDC was mentioned in a January 24, 2013 news report on CBS 11-Dallas as one of several organizations calling for the closure of the Dawson State Jail in Dallas, Texas.
- PLN's prison phone survey data was mentioned in a January 25, 2013 McClatchy article about the FCC taking action on prison phone rates.
- PLN was mentioned in a January 30, 2013 article in the *A&T Register* regarding the FCC's action to lower prison phone rates.
- In a February 3, 2013 article about a \$45 million class-action settlement against AT&T involving prison phone services, the *Seattle Times* mentioned the lawsuit had been filed by family and friends of HRDC executive director Paul Wright.
- A February 7, 2013 *Forbes* article mentioned PLN managing editor Alex Friedmann and Chris Petrella in reference to their efforts to have the Private Prison Information Act reintroduced by U.S. Rep. Sheila Jackson Lee.

23rd Anniversary Issue!

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May 2013

Prison Visitation: A Fifty State Survey

by Chesa Boudin, Trevor Stutz and Aaron Littman

This article presents a summary of the study's findings. The full study and data set will be published in a forthcoming volume of the Yale Law and Policy Review. Chesa Boudin, Trevor Stutz, & Aaron Littman, "Prison Visitation Policies: A Fifty State Survey," 32 Yale L. & Policy Rev. (forthcoming January 2014).

The study's findings were presented at ASCA's annual training conference in October 2012 alongside presentations by state directors from the Ohio and Minnesota departments of corrections, which highlighted the impact of visitation on prison safety and recidivism.

of whether and how prisoners are able to maintain relationships with their parents, spouses, siblings and children.

Visitors often represent the only contact prisoners have with the world outside the prison walls, to which they will most likely return after serving out their sentences. The strength of the connections prisoners maintain with their communities may depend substantially on visitation regulations promulgated by administrators. The nearly unrestrained discretion officials have in crafting and implementing prison visitation regulations makes clear how consequential these policy choices are, both to prisoners' experiences of incarceration and to the success of the correctional enterprise. And, of course, prison visitation policies also have direct and profound implications that transcend the prison walls for families and friends of prisoners.

Importance of Prison Visitation Policy

VISITATION IS THE PRIMARY INTERACTION between prisoners and the public. Visitation policies impact recidivism, prisoners and their families' quality of life, public safety, and prison security, transparency and accountability. Yet many policies are inaccessible to visitors and researchers. Given the wide-ranging effects of visitation, it is important to understand the landscape of visitation policies and then, where possible, identify best practices and uncover policies that may be counterproductive or constitutionally infirm. Comparative analysis of the sort undertaken in this study will hopefully not only inform academics but also empower prisoners and their families to demand meaningful exercise of their First Amendment right to association. In the same vein, the study aims to encourage regulators and prison administrators to implement productive reforms.

Comparative analysis of visitation is particularly valuable given that the contours of prison visitation are determined almost exclusively by administrative discretion, unconstrained except at the margins by judicial interference. The Supreme Court and other federal courts have been largely deferential to prison administrators, granting "broad" wide latitude generally, and in the realm of visitation regulations specifically.² As a result, decisions made by corrections officials are among the primary determinants

The Ohio and Minnesota Studies

AT THE OCTOBER 2012 ANNUAL ASCA training, the Yale authors presented their study alongside Gary Mohr, Director of the Ohio Department of Rehabilitation and Correction, and Tom Roy, Commissioner of the Minnesota Department of Corrections.

The Minnesota study, one of the largest and most in-depth of its kind, concluded that prisoners who received visits while incarcerated were substantially less likely to recidivate. Tracking over 16,000 prisoners released from Minnesota prisons between 2003 and 2007,³ the study showed that, when controlling for numerous other factors, prisoners who received visits were 39% less likely to be reconvicted of a felony after release and 25% less likely to have their probation or parole revoked.⁴ The study also identified administrative policies as

- RT (Russian Television) quoted from a PLN article on elderly prisoners in a February 14, 2013 news report about a 73-year-old ex-offender who robbed a bank so he could return to prison.
- Alex Friedmann's editorial on prison privatization in Michigan was published on www.mlive.com on February 15, 2013.
- On March 19, 2013, Paul Wright was quoted by the BBC regarding the most daring prison escapes.
- Alex Friedmann was quoted in the *Nashville Post* on March 21, 2013 about CCA excluding his shareholder resolution related to the company's restructuring as a real estate investment trust (REIT). "Should CCA's REIT conversion turn out badly, as did the company's first attempt to become a REIT, the company and its board cannot claim they were unaware that they should have fully informed shareholders about CCA's history with respect to REITs," he stated.

- Courthouse News Service (CNS) cited PLN in an article about the U.S. criminal justice system on April 12, 2013, after CNS webpage editor Robert Kahn visited PLN's office in Vermont.
- On April 12, 2013, Alex Friedmann was quoted in an article in *Barron's* regarding falsified staffing records at a CCA-operated prison in Idaho. "Based on the findings by the Idaho Department of Correction and CCA's own admissions, every single jurisdiction that contracts with CCA should conduct an audit to ensure contractual compliance and adequate staffing at facilities operated by the company," he said.
- In May 2013, *The American Reader* profiled PLN in an article on censorship by prison officials; the article was also posted on www.salon.com.
- Alex Friedmann was quoted in the *Clarion Ledger* on May 13, 2013 regarding a riot and the murder of a prison guard at the CCA-operated Adams County Correctional Center in Mississippi.
- On May 16, 2013, Alex Friedmann was quoted on Channel 5 News (Nashville) about a protest with other activists outside CCA's headquarters during the company's 2013 annual shareholder meeting.
- Alex Friedmann was quoted in a May 16, 2013 *Associated Press* article regarding the resignation of the warden at a scandal-plagued CCA prison in Idaho.
- Paul Wright was quoted in a May 17, 2013 article on www.mashable.com about a federal prisoner being placed in segregation for using social media.
- A May 17, 2013 article in the *Clarion Ledger* quoted Alex Friedmann regarding the death of a CCA guard during a riot and CCA's refusal to honor a 30-second moment of silence at the company's annual shareholder meeting. "In that one meeting CCA would not give 30 seconds of respect," he noted. "It speaks volumes how the company thinks of its employees and how it treats them."
- Alex Friedmann was cited in a May 23, 2013 *Nashville Post* article about his criticism of a private prison study conducted by professors at Temple University; he contended the study did not adequately disclose it was funded by private prison companies.
- On May 30, 2013, Alex Friedmann was interviewed by WSMV Channel 4 in Nashville for a news report on Tennessee prisoners using contraband cell phones to post photos and videos on Facebook.
- Alex Friedmann was quoted in a *Nashville Post* article on June 19, 2013 about CCA losing its contract to operate the Idaho Correctional Center.
- A June 21, 2013 article in the *Houston Press* quoted Alex Friedmann in regard to a report released by Grassroots Leadership titled "The Dirty Thirty: Nothing to Celebrate About 30 Years of Corrections Corporation of America."
- Paul Wright and Alex Friedmann were quoted in a July 4, 2013 *Tennessean* article about JPay, a for-profit company that charges a fee for prisoners' families and friends to deposit money in prison accounts, with the state receiving a cut of the fee revenue.

- In a July 10, 2013 *Legal Times* article, Alex Friedmann was quoted in regard to the FCC’s vote to cap interstate prison phone rates.
- On July 16, 2013, Alex Friedmann was quoted in the *Atlanta Daily World* concerning CCA’s increasing profits while a growing number of blacks and Hispanics are being sent to prison.
- Alex Friedmann was interviewed for an August 5, 2013 news report by WSMV Channel 4 in Nashville on the sale of e-cigarettes in jails.
- An August 8, 2013 article in the *Washington Post* mentioned PLN’s prison phone research and its relevance to the FCC decision to lower prison phone rates.
- On August 9, 2013, Alex Friedmann was interviewed by WSMV Channel 4 in Nashville regarding prison phone-related issues and the FCC’s vote to cap the cost of interstate prison phone calls.
- The *U-T San Diego* paper quoted Paul Wright in an August 10, 2013 article about postcard-only policies being implemented at county jails.
- An August 14, 2013 article in the *Phoenix New Times* highlighted PLN’s cover story on the Arizona Department of Corrections by PLN contributing writer Joe Watson, and quoted Alex Friedmann.
- Alex Friedmann was quoted in an August 19, 2013 *Rolling Stone* article about the FCC’s long-awaited vote to lower prison phone rates. “Rather than being the end of a very lengthy decade-long campaign,” he said, “it’s the beginning of a longer struggle to ensure additional reforms of the prison phone industry.”
- On September 8, 2013, Alex Friedmann was quoted in a *StarNews* article about the high

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FCC Order Heralds Hope for Reform of Prison Phone Industry
by John E. Dannenberg and Alex Friedmann

"After a long time – too long – the Commission takes action to finally address the high cost that prison inmates and their families must pay for phone service. This is not just an issue of markets and rates; it is a broader issue of social justice." – FCC Commissioner Jessica Rosenworcel

ON AUGUST 9, 2013, THE FEDERAL Communications Commission (FCC), in a landmark decision, voted to cap the cost of long distance rates for phone calls made by prisoners and enact other reforms related to the prison phone industry. [See: *PLN*, Sept. 2013, p. 42].

The FCC's 131-page final order was released in September and published in the *Federal Register* on November 13, 2013. It has not yet gone into effect due to a 90-day waiting period following publication in the *Register*, plus legal challenges have since been filed by the nation's two largest prison phone companies.

The order, entered in response to a petition for rulemaking submitted to the FCC, is the result of a decade-long effort to lower prison phone rates and implement much-needed changes in the prison phone industry.

Prison Phone Services: A Primer

THE BILLION-DOLLAR PRISON PHONE industry is comprised of companies that provide phone services for prisoners and detainees held in state, federal and privately-operated prisons, county and municipal jails, juvenile facilities, immigration detention centers and other correctional facilities. Such services are commonly referred to as Inmate Calling Services (ICS).

Five companies, known as ICS providers, dominate the prison phone market: Global Tel*Link (GTL), Securus Technologies, CenturyLink, Telmate, and ICSolutions provide phone services for 49 of the 50 state Departments of Corrections. A number of other companies, such as PayTel, NCC, Legacy and EagleTel, provide ICS services primarily to jails.

When prisoners make phone calls they typically have three payment options – collect, prepaid or debit. Collect calls are paid by the call recipient, prepaid calls are paid from a pre-funded account established by the call recipient and debit calls are funded from a prisoner's institutional debit account. Prisoners can usually call only a small number of people on a specified list, and calls are frequently limited to 15 or 20 minutes per call.

There are three types of phone calls within the telecommunications industry – local, intrastate and interstate. Local calls are made to numbers within a local calling area, such as the same city or county. Intrastate calls are made within the boundaries of a state, either within a local access and transport area (LATA), called an intralATA call, or across LATAs, known as an interLATA call. Interstate (long distance) calls are made across state lines and are generally the most expensive.

Prisoners' family members and friends pay for the vast majority of ICS calls, either by accepting collect calls, establishing prepaid accounts or sending money to their incarcerated loved ones to place on their debit phone accounts.

ICS rates are much higher than non-prison rates, in large part because prison phone companies pay "commission" kickbacks to the corrections agencies with which they contract. Such commissions are usually based on a percentage of the revenue generated from prisoners' calls and have nothing to do with the actual cost of providing the phone service. Because ICS providers factor commission payments – which currently average 47.79% for state Departments of Corrections (DOCs) – into the phone rates they charge, the rates are artificially inflated. Absent commission kickbacks, which are received by 42 state DOCs, the rates could be considerably lower. ICS providers paid at least \$223.3 million to state prison systems in 2012.

Phone calls are the primary form of communication for prisoners who are housed at facilities located far from their families and thus do not receive in-person visits. Research has shown that prisoners who maintain close connections with their families while incarcerated are less likely to commit crimes and return to prison following their release.

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cost of prison phone calls and the FCC’s vote to cap interstate phone rates.

- An article in the *Intelligencer Journal* on September 14, 2013 mentioned PLN and HRDC in reference to the FCC’s decision to lower interstate phone rates.
- Paul Wright was quoted in *Neiman Reports* (Harvard University) on September 18, 2013 regarding the need for journalists to cover more criminal justice stories. “Normally well-intentioned or hard-nosed journalists, they tend to take statements by prison officials or government officials at face value, with no type of critical disbelief,” he stated.
- On September 19, 2013, Alex Friedmann was quoted in *The Daily Advertiser* regarding private prison bed guarantees in Louisiana.
- Alex Friedmann was quoted in an article on private prison bed guarantees by PR Watch on September 20, 2013.

- An October 1, 2013 article in *The Nation* quoted Alex Friedmann in reference to prisons being big business. “It’s like the hotel industry,” he said. “The hotel industry wants to keep their beds full as much as possible, because it means more revenue. Same thing for the private prison companies.”
- The *Tampa Bay Times* quoted Paul Wright in an October 4, 2013 article about privatized prison medical care.
- On October 18, 2013, *Courthouse News Service* quoted Paul Wright in an article about the lack of air conditioning and brutal heat that killed 14 prisoners in Texas.
- Alex Friedmann was quoted by WSMV Channel 4 in Nashville on October 18, 2013, concerning high levels of violence in Tennessee prisons.
- The *Orlando Sentinel* quoted Alex Friedmann on October 19, 2013 about two Florida prisoners who had escaped using forged court documents.
- On October 22, 2013, Alex Friedmann was quoted by WCPO in Cincinnati about the lack of inspections to ensure that Ohio jails meet state standards. “Who’s guarding the guards or who’s watching the watchers?” he asked. “When there is no oversight, conditions tend to deteriorate.”
- The *Lewiston Tribune* quoted Alex Friedmann on October 25, 2013 concerning the violence-prone CCA-operated Idaho Correctional Center.
- In the October 25-27, 2013 weekend edition of *Counterpunch*, PLN’s cover story on the Prison Rape Elimination Act was mentioned in regard to sexual abuse of juvenile offenders.
- A rebuttal editorial by Alex Friedmann, in response to an earlier editorial by CCA vice president Harley Lappin, was published by the *Tennessean* on October 26, 2013. Alex’s editorial was also cited by *In These Times*, which identified him as being affiliated with “the ruthless and indispensable newsletter and website, Prison Legal News.”
- Alex Friedmann was quoted in an October 26, 2013 article in the *Palm Beach Post* about dubious cost savings by privately-operated prisons in Florida.
- Paul Wright and PLN contributing writers David Reutter and Chris Zoukis were quoted in an October 31, 2013 article in *The American Reader* on misconceptions about life in prison.
- PLN was mentioned and Paul Wright was quoted in a November 4, 2013 article in *The Militant* on prison censorship issues.
- On November 6, 2013, Alex Friedmann was quoted in a lengthy *Worcester Telegram* article about the evils of prison privatization.
- Alex Friedmann was interviewed by WSMV Channel 4 in Nashville for a November 12, 2013 news report on a violent cell extraction at a Tennessee state prison.
- A November 12, 2013 article on www.takepart.com cited a PLN cover story about prison food.
- RT (Russian Television) interviewed Alex Friedmann on November 15, 2013 for a news report on private prison companies.
- *Linke Zeitung*, a German publication, quoted Alex Friedmann in a November 29, 2013 article about the private prison industry.
- The *Palm Beach Post* quoted Paul Wright in a December 1, 2013 article about prisoners used on community work crews in Florida. “That sounds like plain old exploitative slavery to me,” he said. “I don’t think exploiting people makes any kind of work ethic.”
- HRDC was mentioned in a brief December 3, 2013 *Nashville Post* article about Alex

Friedmann's shareholder resolution filed with CCA to reduce prison phone rates at the company's for-profit facilities.

- On December 12, 2013, Alex Friedmann was quoted in the *Tennessean* about the high costs of phone calls in Tennessee's prison system.
- Alex Friedmann's letter to the editor on housing Vermont prisoners in out-of-state private prisons, in response to a previous letter by CCA spokesman Steve Owen, was published by the *Valley News* on December 14, 2013.
- PLN was cited in a *City Paper* (Pennsylvania) article on December 19, 2013, regarding prisoners' access to public records.
- The *Daily Business Review* profiled PLN on December 20, 2013 in an article about a censorship suit filed by HRDC against the St. Lucie County Jail in Florida.
- On December 26, 2013, the *Broward/Palm Beach New Times* published a profile of PLN and PLN editor Paul Wright.

Litigation Project

Attorneys with HRDC's Litigation Project provide co-counsel in all censorship and public records lawsuits involving Prison Legal News. HRDC general counsel Lance Weber also co-counsels select cases involving prisons and jails with other civil rights attorneys across the country. All of HRDC's litigation has a public education and media component that furthers our advocacy efforts with respect to criminal justice reform and prisoners' rights.

HRDC continues to be heavily involved in litigation, primarily due to censorship issues related to PLN the magazine and PLN book distribution efforts, as well as denials of our public records requests. PLN litigation continued to generate media

coverage in 2013, including articles in the *Washington Post*, *Associated Press*, *Dallas Morning News*, ABC News, *Valley News* (NH), *Corrections.com*, *Times News* (TN), *Gilmer Mirror* (TX), *Longview News-Journal* (TX), *Las Vegas Review-Journal*, *Courthouse News Service*, *Journal Sentinel* (WI), *New England First Amendment Coalition*, *VT Digger*, *Burlington Free Press*, *Nashville City Paper* and *News Journal* (TX).

HRDC's 2013 litigation docket included the following cases; cases that were both filed and resolved during the year are listed in the "Cases Resolved" section.

New Cases Filed in 2013

CCA Public Records Case in Texas: PLN filed suit in the District Court of Travis County, Texas in May 2013, alleging that Corrections Corporation of America had failed to respond to public records requests. PLN had requested a number of records from CCA, including contracts between the company and state and local government agencies, as well as settlements, verdicts and judgments entered against CCA in Texas. PLN contended that CCA was the functional equivalent of a government agency performing the inherently public service of operating prisons and jails, and thus must comply with Texas' public records statute. CCA operates nine facilities in Texas, including four that house state prisoners. PLN is represented by attorneys Cindy Saiter Connolly with Scott, Douglass & McConnico, LLP and Brian McGiverin with the Texas Civil Rights Project. The case is *Prison Legal News v. CCA*.

Kenosha County, Wisconsin Jail Censorship Suit: PLN filed suit against Kenosha County, Wisconsin and the Kenosha County Sheriff's Office on June 27, 2013; the complaint alleges that the county jail censored PLN's books and magazine. In conjunction with the suit, PLN filed a motion for a preliminary injunction. PLN is represented by the Chicago law firm of Loevy & Loevy and HRDC general counsel Lance Weber. The case is *Prison Legal News v. Beth*.

Nevada Department of Corrections Censorship

Case: PLN filed a federal lawsuit against the Nevada Department of Corrections on June 27, 2013. The complaint accuses state prison officials of censoring PLN’s books, magazines and correspondence pursuant to their “approved vendors” and “unauthorized correspondence” policies, as well as policies that prohibit the use of address labels and require books to be sent to prisoners via first class mail. In 2000, the Nevada Department of Corrections had settled a censorship suit filed by PLN over similar issues, and agreed that prisoners “shall be permitted to subscribe to the publications of their choice.” PLN is now seeking declaratory and permanent injunctive relief, as well as damages and payment of attorneys’ fees and costs, and has moved to hold the Nevada Department of Corrections in contempt for violating the prior settlement agreement. PLN is represented by Staci Pratt and Allen Lichtenstein, attorneys with the Nevada ACLU; Ernest Galvan with the San Francisco law firm of Rosen Bien Galvan & Grunfeld; and HRDC general counsel Lance Weber. The case is *Prison Legal News v. Cox*.

CCA Public Records Case in Vermont: PLN filed suit in Superior Court in Vermont on June 7, 2013, alleging that by housing and overseeing Vermont prisoners, CCA is a “public agency” as defined by the state’s public records law and thus is required to comply with public records requests. The lawsuit was filed after CCA failed to respond to PLN’s records request related to its incarceration of Vermont prisoners in out-of-state facilities. PLN has asked the court to declare that CCA is a “public agency” for purposes of Vermont’s public records law; the suit also seeks reimbursement of costs and attorneys’ fees. CCA filed a motion to dismiss, which remained pending at the end of 2013. PLN is represented by ACLU of Vermont staff attorney Dan Barrett. The case is *Prison Legal News v. CCA*.

Comal County, Texas Jail Censorship Suit: PLN filed suit in federal court against Comal County, Texas on July 8, 2013. The lawsuit alleges that the county jail censored PLN’s books, magazines and correspondence without adequate due process; a motion for a preliminary injunction was filed, but was mooted in September 2013 after the jail changed its mail policy. PLN is represented by attorneys James Harrington and Brian McGiverin with the



Texas Civil Rights Project and HRDC general counsel Lance Weber. The case is *Prison Legal News v. Holder*.

St. Lucie County, Florida Jail Censorship Case:

PLN filed a federal lawsuit against Sheriff Ken J. Mascara and the St. Lucie County Jail in Florida on December 17, 2013. The complaint alleges that the jail has a policy which prohibits prisoners from receiving any mail except postcards, including a prohibition on magazines and books. The suit seeks declaratory and injunctive relief as well as nominal and compensatory damages. PLN is represented by attorneys Randall Berg and Dante Trevisani with the Florida Justice Institute, and HRDC general counsel Lance Weber and staff attorney Robert Jack. The case is *Prison Legal News v. Mascara*.

Virginia Beach Correctional Center Censorship

Suit: On July 30, 2013, PLN filed suit in federal court against Sheriff Kenneth Stolle and the Virginia Beach Correctional Center – the largest jail in the Commonwealth of Virginia. The lawsuit alleges that the jail censored PLN’s books, magazine and correspondence without adequate due process, in violation of the First and Fourteenth Amendments. “Government officials, including those in the Virginia Beach Sheriff’s Office, should not be in the business of unconstitutionally censoring the publications citizens can read, even if those citizens are incarcerated – including those who have not been convicted and are ‘presumed innocent,’” said HRDC executive director Paul Wright. PLN is represented by Charlottesville attorneys Jeffrey E. Fogel and Steven D. Rosenfield, plus HRDC general counsel Lance Weber. The case is *Prison Legal News v. Stolle*.

Sullivan County, Tennessee Jail Censorship

Case: PLN filed suit in federal court against Sheriff Wayne Anderson and the Sullivan County Jail on October 10, 2013. The lawsuit alleges that prisoners can only send and receive postcards, which prevents them from receiving PLN's magazines and books in violation of the First and Fourteenth Amendments. In addition to the complaint, PLN filed a motion for a preliminary injunction to prohibit enforcement of the jail's restrictive mail policy. PLN is represented by Tricia Herzfeld with the Nashville firm of Ozment Law, and by HRDC general counsel Lance Weber. The case is *Prison Legal News v. Anderson*.

Wrongful Death Case in Washington State:

HRDC co-counseled with a Seattle law firm to represent the estate and minor children of Ricardo Mejia, a 26-year-old Washington State prisoner who died as a result of the deliberate indifference of prison medical staff. Mr. Mejia suffered a horrible, painful death in January 2011 due to sepsis, septic shock and untreated necrotizing fasciitis (commonly known as flesh-eating bacteria). After pre-litigation settlement discussions with the state, a wrongful death suit was filed in December 20, 2013 in Thurston County Superior Court alleging systemic failures by prison medical staff. The case is expected to settle in early 2014, pursuant to the pre-litigation discussions. Mejia's estate and two minor children are represented by Jesse Wing with the law firm of MacDonald Hoague & Bayless, and HRDC general counsel Lance Weber. The case is *Soria v. Washington State Department of Corrections*.

Prior Cases Still Pending in 2013

Columbia County, Oregon Jail Censorship Case:

PLN filed suit in federal court against Columbia County, Oregon on January 13, 2012. The lawsuit alleges that the jail censored PLN's magazines and correspondence pursuant to a postcard-only policy and ban on magazines, and failed to provide adequate due process notice when publications were censored in violation of the First and Fourteenth Amendments. The court issued a preliminary injunction against the jail in May 2012, suspending

its postcard-only policy and ordering jail officials to deliver magazines to prisoners. On April 24, 2013, following a February 2013 bench trial, the district court found that the postcard-only policy at the Columbia County jail was unconstitutional and entered a permanent injunction. This was the first time in American history that a court had struck down a jail's postcard-only policy following a trial on the merits. The county and PLN subsequently settled the damages claims still at issue in the lawsuit. The county filed a notice of appeal which remained pending at the end of 2013, and PLN's motion for attorneys' fees and costs also remained pending. PLN is represented by attorneys Jesse Wing and Katherine Chamberlain of MacDonald Hoague and Bayless, Marc D. Blackman with the Portland law firm of Ransom Blackman, LLP and HRDC attorney Lance Weber. The case is *Prison Legal News v. Columbia County*.

CCA Wrongful Death Suits in Hawaii:

HRDC filed separate lawsuits against Corrections Corporation of America over the deaths of two Hawaiian prisoners at CCA's Saguaro Correctional Center in Arizona. Because the State of Hawaii contracts with CCA to house prisoners in Saguaro, the State of Hawaii and the Hawaii Department of

Public Safety were also named as defendants. The family of Bronson Nunuha sued CCA on February 15, 2012; Nunuha had been placed in a controversial behavior modification program at the CCA-run prison, where he was brutally murdered by two members of a rival gang. Clifford Medina's family sued CCA on May 23, 2012; Medina was housed in a segregation cell with another prisoner who threatened to kill him and eventually strangled him to death. The lawsuits claim that the deaths were due to understaffing, deliberate indifference to prisoners' safety and CCA's negligence in running the Saguaro facility. The Nunuha and Medina families are represented by HRDC, the San Francisco law firm of Rosen Bien Galvan & Grunfeld, LLP and the Hawaii ACLU. The cases are *Estate of Nunuha v. State of Hawaii* and *Estate of Medina v. State of Hawaii*.

Walton County, Georgia Jail Censorship Case:

PLN filed a federal lawsuit against Walton County, Georgia on September 21, 2012. The complaint accuses the Walton County jail of censoring PLN's books, magazines and correspondence due to a postcard-only policy and a ban on books and magazines. The district court granted in part and denied in part PLN's motion for a preliminary injunction on March 26, 2013, and a trial is scheduled in February 2014. PLN is represented by attorneys Brian Spears, Gerry Weber, Jeff Filipovits and Andrew Wan, as well as HRDC general counsel Lance Weber. The case is *Prison Legal News v. Chapman*.

Livingston County, Michigan Jail Censorship Suit:

PLN filed suit against Livingston County, Michigan and Sheriff Bob Bezotte on August 9, 2011. The federal lawsuit alleges that the county jail "adopted and implemented written mail policies and practices that unconstitutionally restrict correspondence to prisoners via postcards only..." and raises claims under the First and Fourteenth Amendments. The defendants filed a motion for summary judgment on December 5, 2013, which remains pending. PLN is represented by attorneys Thomas M. Loeb, Brian J. Prain and Daniel E. Manville, plus HRDC general counsel Lance Weber. The case is *Prison Legal News v. Bezotte*.

Pinal County, Arizona Jail Censorship Suit: On September 7, 2011, PLN filed suit against Pinal County, Arizona and Sheriff Paul Babeu challenging the county jail's ban on all books, magazines and non-postcard mail, and the denial of due process when such mail is censored. After the lawsuit was filed, the county claimed that the censorship was a "mistake." On March 20, 2013, the district court granted in part and denied in part the parties' cross motions for partial summary judgment. In May 2013, PLN filed an interlocutory appeal to the Ninth Circuit Court of Appeals. PLN is represented by Dan Pochoda with the Arizona ACLU, the San Francisco law firm of Rosen Bien Galvan & Grunfeld, LLP, and HRDC general counsel Lance Weber. The case is *Prison Legal News v. Babeu*.

Florida Statewide Ban on *Prison Legal News*: On November 17, 2011, PLN filed suit challenging a statewide ban on *Prison Legal News* by the Florida Department of Corrections (FDOC); the ban is



purportedly based on PLN's advertising content, including pen pal ads. PLN previously sued the FDOC over a similar policy in 2003, but that case was dismissed as moot after the defendants changed their policy just before trial and assured the court that PLN would not be banned based on its advertisements. Private prison companies GEO Group and Corrections Corporation of America are also named as defendants in this case, as they also censor *PLN* at their Florida facilities. Although set for trial in August 2013, the trial was postponed by the court and the case remained pending at the end of 2013. PLN is represented by Randall Berg, Josh Glickman and Dante Trevisani with the Florida Justice Institute, Randall Marshall with the Florida ACLU, and HRDC general counsel Lance Weber. The case is *Prison Legal News v. Crews*.

CCA Infant Wrongful Death Suit in Tennessee:

On November 17, 2011, HRDC and attorneys Andrew Clarke and Luther Sutter filed lawsuits in federal and state court in Tennessee on behalf of former prisoner Countess Clemons and the estate of Roland Clemons, her deceased infant child. The suits claim that Corrections Corporation of America was deliberately indifferent to Ms. Clemons' serious medical needs when CCA employees at the Silverdale Detention Facility in Chattanooga, where Ms. Clemons was incarcerated, did not timely take her to a hospital when she began experiencing preterm labor. Upon arrival at the hospital over five hours after she first requested assistance from CCA staff, her son Roland was born but died shortly afterward. The state court cases were dropped in 2013 and the federal lawsuits remain pending; the latter cases are *Clemons v. CCA* and *Luhowiak v. Smith*.



BOP FOIA Suit: In September 2005, PLN filed a Freedom of Information Act (FOIA) suit in the District of Columbia against the federal Bureau of Prisons, seeking records related to all cases over a multi-year period in which the BOP paid any funds to resolve claims or lawsuits. The BOP responded to PLN's FOIA request by trying to charge a ridiculous amount of money to search for and copy the requested records. The district court ruled in PLN's favor on June 26, 2006 and ordered the BOP to provide the records at no charge. The BOP produced some of the requested records but most were redacted or incomplete. In March 2009, the court ordered the BOP to "conduct anew its searches for the records sought by plaintiff," or to demonstrate the adequacy of its search. PLN filed five motions for summary judgment in this case; on July 23, 2013 the district court granted summary judgment to the defendants. PLN appealed to the DC Circuit Court of Appeals in August 2013, and also has moved for attorneys' fees and costs as the prevailing party, because the suit resulted in the BOP producing the requested records. PLN was represented before the district court by Washington, DC attorney Ed Elder, the Partnership for Civil Justice and HRDC general counsel Lance Weber. On appeal, PLN is represented by the Washington, DC law firm of Davis Wright Tremaine, LLP and HRDC general counsel Lance Weber. The case is *Prison Legal News v. Samuels* (previously *Prison Legal News v. Lappin*).

Orleans Parish, Louisiana Jail Censorship Case: On September 9, 2011, PLN filed suit against the Orleans Parish Jail in New Orleans, Louisiana, challenging the jail's ban on books and magazines and the denial of due process notice when such

reading materials are censored. The Orleans Parish Jail entered into a consent judgment and changed its mail policies in December 2011, and settled the case by paying damages in September 2012. The issue of attorneys' fees and costs remained pending as of the end of 2013. PLN is represented by New Orleans attorneys Mary Howell, Elizabeth Cumming and John Adcock, and HRDC general counsel Lance Weber. The case is *Prison Legal News v. Gusman*.

Cases Resolved in 2013

CCA Public Records Case in Tennessee: In May 2008, PLN managing editor Alex Friedmann sued Corrections Corporation of America in state court under Tennessee's public records act, seeking disclosure of certain records related to CCA's operation of prisons and jails in Tennessee. The trial court held, for the first time, that a private prison company was subject to the state's public records statute, and CCA appealed. In August 2009 the Court of Appeals found that CCA was the functional equivalent of a state agency and therefore subject to the public records law; in a revised ruling on September 16, 2009, the appellate court clarified that the records requested by PLN were subject to disclosure for all but one CCA-operated state prison in Tennessee. On remand, the trial court held on December 1, 2011 that CCA must disclose the remaining records at issue in the case, including verdicts and settlements in lawsuits against the company. CCA again appealed and the Court of Appeals affirmed on February 28, 2013, holding the company must produce the requested records. Following remand, CCA settled the case in May 2013 by producing the records and paying attorney's fees. Alex was represented by Memphis attorney Andrew Clarke; the case was *Friedmann v. CCA*.

Umatilla County, Oregon Jail Censorship Case: PLN filed suit in federal court against Sheriff John Trumbo and the Umatilla County Jail in Oregon in June 2012. The jail had adopted and implemented a policy that restricted correspondence to and from prisoners to postcards only. The policy also prohibited the delivery of books, catalogs, newspapers and magazines that had not been pre-approved by the jail, and did not afford due process when publications and correspondence were rejected. PLN accepted an offer of judgment by the

county to resolve PLN's damages claims in August 2012, after the jail had changed its mail policy. On May 16, 2013, the district court awarded attorneys' fees and costs to PLN. PLN was represented by HRDC general counsel Lance Weber and former staff attorney Alissa Hull, Jesse Wing and Katherine Chamberlain with the Seattle law firm of MacDonald Hoague & Bayless, and Marc D. Blackman with the Portland firm of Ransom Blackman, LLP. The case was *Prison Legal News v. Umatilla County*.

Upshur County, Texas Jail Censorship Suit: In November 2012, PLN filed suit seeking injunctive and declaratory relief, damages and attorneys' fees and costs against the Upshur County Jail in Texas for censoring magazines, periodicals and mail addressed to prisoners, in violation of the First and Fourteenth Amendments. PLN simultaneously filed a motion for a preliminary injunction, asking the court to prohibit the jail from continuing to censor publications sent to prisoners. On September 30, 2013, the district court granted PLN's motion for a preliminary injunction, finding: "The evidence suggests that at least some of PLN's correspondence with prisoners has been withheld from its intended recipients, depriving Plaintiff of its First Amendment rights without due process of law." The case settled in December 2013 with the county agreeing to pay damages, attorneys' fees and costs. PLN was represented by attorneys Thomas S. Leatherbury, Sean W. Kelly, Kimberly R. McCoy and Marissa A. Wilson with the Dallas law firm of Vinson & Elkins, LLP, Scott Medlock and Brian McGiverin with the Texas Civil Rights Project, and HRDC general counsel Lance Weber. The case was *Prison Legal News v. Betterton*.

Wrongful Death Suit in Pennsylvania: HRDC attorneys co-counseled with Jonathan Feinberg with the Philadelphia firm of Kairys Rudovsky Messing Feinberg in a case involving the suicide of a prisoner at a privately-operated jail facility. The case resolved pre-litigation pursuant to a confidential settlement that was finalized in October 2013.

Amicus Briefs

HRDC joined in an amicus brief submitted to the New Hampshire Supreme Court of Appeals on

December 23, 2013 in *John Doe v. State of New Hampshire*. This case involved the issue of sex offender registries, and how such registries constitute a form of punishment applied to offenders who already have low recidivism rates. Other amici partners in this case included Citizens for Criminal Justice Reform (CCJR), Citizens United for Rehabilitation of Errants (CURE), Women Against Registry, and Reform Sex Offender Laws, Inc.

HRDC also joined in an amicus brief submitted to the U.S. Supreme Court on July 19, 2013 in support of a petition for writ of certiorari in *Matkin v. Barrett*. HRDC and other amici partners, which included the Florida Justice Institute, National Police Accountability Project and Southern Center for Human Rights, asked the Supreme Court to review an Eleventh Circuit decision that upheld strip search policies at a jail in Fulton County, Georgia. The certiorari petition was denied in November 2013.

Other Activities & Achievements

Campaign for Prison Phone Justice

HRDC co-founded the national Campaign for Prison Phone Justice in 2011, with Media Action Grassroots Network (MAG-Net) – a project of the Center for Media Justice – and Working Narratives. The campaign's website is www.phonejustice.org, while HRDC maintains a site for prison phone-related data at www.prisonphonejustice.org.

In 2013, HRDC continued to pressure the FCC to reduce the cost of prison phone calls and filed a comprehensive comment on March 25, 2013 in support of the Wright Petition – the proceeding before the FCC to cap interstate prison phone rates. HRDC also submitted a reply comment in April 2013, and encouraged individual and organizational members of the Campaign for Prison Phone Justice to contact the FCC. Further, in June, HRDC hired David Ganim as our national prison phone justice director.

On July 10, 2013, HRDC associate director Alex Friedmann and David Ganim attended an FCC workshop on prison phone issues held at the agency's headquarters in Washington, DC. Alex testified on a panel at the workshop; he noted that by

lowering prison phone rates, prisoners will stay better connected with their families while incarcerated and have increased chances of success after they are released, resulting in lower recidivism rates.

One month after the workshop, on August 9, 2013, the FCC voted 2 to 1 to enact a number of prison phone industry reforms, including capping interstate phone rates at \$.21 per minute for debit and pre-paid calls and \$.25 per minute for collect calls. Following this historic vote, PLN and HRDC were quoted or cited nearly 20 times in newspapers, magazines, blogs and TV stations, including the *Arkansas Democrat-Gazette*, *Washington Post*, *Colorlines.com*, *Free Press*, *Los Angeles Times*, *Rolling Stone*, *Sun Sentinel*, *The Crime Report*, *www.thehill.com*, the *Tennessean*, *USA Today* and WSMV-TV Channel 4 in Nashville.

The FCC's order was issued in September 2013 and published in the Federal Register in November; it will go into effect in early 2014.

In December 2013, PLN published a comprehensive cover story on the prison phone industry, including updated state-by-state prison phone rates and commission-related data.

On December 20, 2013, HRDC submitted comments on the FCC's Further Notice of Proposed Rulemaking in the Wright Petition, encouraging the FCC to extend to intrastate prison phone rates the rate caps and other reforms related to interstate phone calls. HRDC also urged the FCC to address issues related to quality of prison phone services and ancillary fees charged by prison phone companies.

Washington Prison Phone Justice Campaign

Following the success of the national Campaign for Prison Phone Justice, and after receiving *cy pres* funds from a prison phone-related class-action lawsuit in Washington State, HRDC began to organize its first statewide prison phone justice campaign in Washington in late 2013.

HRDC prison phone justice director David Ganim submitted public records requests to all 39 Washington county jails for copies of their phone contracts, phone rates and commission data. He is currently preparing a comprehensive report and analysis on the cost of prison and jail phone calls in Washington State; the report should be finalized by mid-2014.

In December 2013, HRDC hired Carrie Wilkinson to direct the Washington Prison Phone Justice Campaign, with the goal of ending prison and jail phone commissions and reducing the cost of intrastate phone rates in Washington state. By the end of 2013, HRDC had partnered with Working Narratives to develop the website for the Washington Prison Phone Justice Campaign (www.wappj.org), and Carrie had started reaching out to campaign allies in Washington, including Columbia Legal Services. The statewide campaign is also being promoted through PLN.

CCA and GEO Shareholder Resolutions

In November 2012, HRDC associate director Alex Friedmann, who owns a small amount of stock in Corrections Corporation of America, filed a shareholder resolution with CCA related to the company's then-pending conversion to a real estate investment trust (REIT). The resolution would have required CCA to disclose certain information about its REIT conversion to shareholders; specifically, CCA would have to inform shareholders about its prior conversion to a REIT in 1999, which resulted in a drastic drop in the company's stock price, a reverse stock split and shareholder lawsuits. CCA filed a no-action request with the Securities and Exchange Commission (SEC) seeking to exclude the resolution, and the SEC ruled in the company's favor in March 2013. CCA subsequently completed its conversion to a REIT.

In November 2013, Alex filed shareholder resolutions with both CCA and GEO Group, which would require the companies to reduce the rates charged for inmate telephone services (ITS) at their facilities. The resolutions noted that "prisoners who maintain close connections with their families have a lesser chance of reoffending after release, thereby reducing recidivism. However, high ITS rates impose a financial burden that impedes such connections. Lower ITS rates would facilitate more communication between prisoners and their families and children."

Specifically, the resolutions would require CCA and GEO to forgo prison phone "commission" kickbacks and give the greatest consideration to the overall lowest phone charges among the factors they consider when evaluating and entering into prison phone contracts. GEO Group filed a no-action request with the SEC in late December 2013, and

CCA is expected to file a similar request. The shareholder resolutions remained pending at the end of 2013.

Attorneys Jeffrey Lowenthal and Jonathan Burke with the law firm of Stroock & Stroock & Lavan, LLP represent Alex pro bono before the SEC.

Private Prison Information Act

On December 18, 2012, HRDC and UC Berkeley doctoral student Christopher Petrella co-authored a letter to U.S. Representative Sheila Jackson Lee, urging her to reintroduce the Private Prison Information Act (PPIA) during the 113th Congress. The PPIA would require private prison companies that contract with federal agencies to comply with the Freedom of Information Act (FOIA) to the same extent as public correctional facilities, which would result in increased transparency and accountability at private prisons that house federal prisoners. Throughout 2013, HRDC and Chris worked with Congressional staff to draft the PPIA legislation, though it was not introduced by the end of the year. Over 30 organizations have signed on to a letter urging the reintroduction of the PPIA. Joining the campaign in 2013 were the Ella Baker Center for Human Rights, Texas Jail Project, CCPOA, Prison Watch Network, Prison Reform Movement, National Prison Divestment Campaign and Harvard Law School Professor Charles Ogletree.

See: PRIVATEPRISONINFORMATIONACTOF2013.COM

Temple University Ethics Complaint

On June 25, 2013, PLN managing editor Alex Friedmann filed an ethics complaint with Temple University against Professors Simon Hakim and Erwin Blackstone, who had published a research study lauding the benefits of prison privatization in April 2013.

The complaint alleges that the study as initially released did not disclose that it had been funded by private prison companies, including industry leaders CCA, GEO Group and MTC. The ethics complaint further notes that Hakim and Blackstone submitted editorials to newspapers in at least five states regarding their research findings, and failed to disclose in all but one of the editorials that they had received funding from private prison companies.

In response, Alex submitted rebuttal editorials to the same newspapers that published the editorials by Professors Hakim and Blackstone. Four of the counter-editorials were published, in the *Detroit Free Press*, *Morning Sentinel* (ME), *Sun Sentinel* (FL) and *Oklahoman* between May and June 2013. The ethics complaint filed with Temple University remains pending.

First Amendment Award

On July 25, 2013, the Society of Professional Journalists (SPJ), which is dedicated to encouraging the free practice of journalism, upholding high standards of ethics in that field and protecting First Amendment guarantees of freedom of speech and the press, announced that HRDC was the recipient of the SPJ's annual First Amendment Award.

"The organization's advocacy and legal action has resulted in court victories for publishers and hundreds of thousands of prisoners all over the U.S.," the SPJ noted.

HRDC was nominated for the First Amendment Award by Ian Urbina, Washington correspondent for *The New York Times*. Prior recipients of the award have included Supreme Court Justices William Brennan and William Douglas.

HRDC executive director Paul Wright accepted the award at the SPJ's Excellence in Journalism conference on August 26, 2013.

Collaborations and Affiliations

HRDC collaborated with other organizations in 2013 on a variety of advocacy efforts, reports, campaigns and other projects – including MAG-Net and Working Narratives (Campaign for Prison Phone Justice), the Prison Policy Initiative, Private Corrections Institute, In the Public Interest and Grassroots Leadership. Additionally, HRDC staff maintained the following affiliations with other groups:

- **HRDC executive director Paul Wright** is a member of the National Lawyers Guild and serves on the board of the NLG's National Police Accountability Project. He is also a member of the American Correctional Association and American Jail Association.

- **HRDC associate director Alex Friedmann** serves in a volunteer, non-compensated capacity as president of the Private Corrections Institute, a non-profit watchdog group that opposes prison privatization. He also volunteers as a consultant to the Presbyterian Criminal Justice Network and works with the Tennessee Consultation on Criminal Justice, serves on the advisory board of the Prison Policy Initiative and is a member of the National Lawyers Guild and National CURE. At the end of 2013 he completed a three-year term as a board member for Reconciliation, a Nashville-based non-profit organization that advocates and provides services for families of Tennessee prisoners.
- **HRDC general counsel Lance Weber** is a member of the National Lawyers Guild's National Police Accountability Project, the First Amendment Lawyers Association, the American Bar Association's Civil Rights Litigation Committee, and the American Bar Association's First Amendment and Media Litigation Committee.
- **HRDC staff attorney Robert Jack** is a member of the National Lawyers Guild and the NLG's National Police Accountability Project.
- **HRDC prison phone justice director David Ganim** is a member of the Broward County Bar Association, paralegal section and is on the stewardship committee of the United Church of Christ-Fort Lauderdale.
- **HRDC** maintained organizational memberships with the Raising the Bar Coalition and the Public Safety and Justice Campaign.

Looking Forward: Goals for 2014

We are pleased with HRDC's progress during 2013 in terms of our media outreach, litigation project and advocacy efforts, among other activities. PLN's website continues to be an important source of news

and legal research for prisoners' rights advocates, policy makers, academics, researchers, journalists, prisoners' family members, attorneys and other people involved in criminal justice and corrections-related issues.

Our litigation project continued to be busy throughout 2013 due to ongoing censorship of *Prison Legal News* and the books we distribute by prison and jail officials. We anticipate filing additional legal challenges in 2014, specifically concerning postcard-only policies enacted by a growing number of county jails.

Further, HRDC will continue to co-coordinate the Campaign for Prison Phone Justice and advocate for lower in-state prison and jail phone rates nationally. One of our top goals for 2014 includes reopening our Seattle office and launching the Washington Prison Phone Justice Campaign, with the objective of ending commission kickbacks and lowering costs for prison and jail phone calls in Washington State.

Our book publishing plans include publishing an updated edition of *The Habeas Citebook: Ineffective Assistance of Counsel* plus one new self-help litigation title. We continue to seek new books to distribute that are of interest to our prisoner readership, and encourage book ideas and submissions from qualified authors.

Another major goal for 2014 is to revamp and modernize HRDC's three websites, which include the HRDC, Prison Legal News and Prison Phone Justice sites. Other ongoing goals include building HRDC's organizational capacity, expanding our fundraising efforts and funding sources, and continuing to advocate for criminal justice reforms that are critical but largely ignored, including issues related to the federal Bureau of Prisons and the environmental impact of correctional facilities.



Rally against over-priced phone rates in prisons organized by HRDC, Nov 2012



Recent news articles published about PLN and HRDC

Justice Watch: *Prison Legal News* is Filing, Winning Federal Lawsuits

By John Pacenti
Daily Business Review
December 20, 2013

The October issue of *Prison Legal News* contained one story entitled, “How many inmate deaths is too many?”

Another article addressed a Justice Department investigation into widespread sexual abuse in Alabama women’s prisons by male guards, while another took a look at what led to a mentally ill prisoner in Illinois to die on a hunger strike.

Sprinkled throughout the edition were advertisements offering, for instance, the newest edition of “The Prisoner’s Self-Help Litigation Manual.”

Every issue of *Prison Legal News* contains news inmates can use, but many jails and some prisons don’t want them to have it.

Paul Wright, who started the publication from his Washington state jail cell in the 1990s, has fought back, filing dozens of lawsuits against state and counties across the country in the last decade. He has recently moved operations from Vermont to Lake Worth.

Wright is the founder and executive director of the Human Rights Defense Center and editor of *Prison Legal News*. He challenges corrections policies keeping out his publication and other types of correspondence—even letters from family and friends.

Wright served 17 years in prison after being convicted of killing a man in the robbery of a cocaine dealer when he was 21. By the time he was released in 2003, *Prison Legal News* was more than a decade old and had broken numerous stories about inmate exploitation.

The magazine and its parent, Human Rights Defense Center, filed its latest legal salvo last week, a federal complaint against St. Lucie County Sheriff Kenneth J. Mascara.

‘Unconstitutional’

The lawsuit challenges a department policy requiring all



incoming mail to be on postcards—a get-tough-on-criminals approach started by Maricopa County Sheriff Joe Arpaio in Arizona.

The litigation assigned to U.S. District Judge Jose E. Martinez in Fort Pierce claims the policy is unconstitutional because it de facto bans *Prison Legal News*.

Its “publications, books and other materials ... are political speech and social commentary, which are at the core of First Amendment values and are entitled to the highest protection afforded by the U.S. Constitution,” according to the lawsuit.

Adam Fetterman, an attorney with the St. Lucie Sheriff’s Department, said he is reviewing the case.

“Despite numerous outside cases by *Prison Legal News*, there are a number of court decisions that are favorable to the sheriff in regards to security issues,” he said.

Wright’s newsprint magazine is serious journalism.

In 1994, Wright reported then-Republican U.S. Rep. Jack Metcalf was using prison labor to staff his get-out-the-vote telemarketing campaign. Two years later, Wright exposed how Microsoft Corp. was using prison labor to package some of its software.

Then in 2006, *Prison Legal News*, which also goes by PLN, revealed the Kansas Department of Corrections employed relatives of the founder of the extremist Westboro Baptist Church of Topeka, Kan. The church is known for picketing the funerals of U.S. soldiers and gay murder victims.

St. Lucie is hardly the only legal battle being waged by Wright. In total, Wright and his organization have filed about two dozen lawsuits across the country since 2000 to get the publication into the hands of inmates. They usually end in consent decrees or policy changes.

So why are prisons and jails so worried about inmates reading

a magazine highlighting issues important to them?

Mission to educate

“I can only guess that prison officials are worried about being held accountable for their actions because PLN’s mission is to educate prisoners about the legal system and their rights and sort of give them hope and obtain relief for constitutional violations by using the judicial system,” said Lance Weber, general counsel for the Human Rights Defense Center.

The magazine has about 9,000 subscribers and gets passed around so much by inmates that Weber estimates readership at 100,000 per issue.

The suit against the St. Lucie sheriff claims the jail also is rejecting books to help inmates file pro se pleadings, turning away 31 copies of a book on the subject from February 2012 to August 2013.

As a result, the inmates’ constitutional right to free speech and their due process rights under the 14th Amendment are being violated, the suit claims.

Postcard-only policies are counterintuitive to Weber. He noted many people in jail are there for the first time, either waiting for court proceedings or serving minor sentences. They are often battling addiction and chaos at home, and trying to become employable after they get out. He said curtailing correspondence short circuits the re-entry process.

“Postcard-only policies are cutting off communication and getting in the way of rehabilitation,” Weber said.

Florida sued

Attorney Randall Berg, executive director of the Florida Justice Institute in Miami, said his organization has teamed up with Wright to challenge prisons and jails on mail policy in lawsuits in Florida.

“Why don’t you want these people to educate themselves?” Berg asked. “They need to know stuff that’s dealing with their health and safety, their legal rights.”

The St. Lucie lawsuit is not challenging the need to review inmate mail, but Berg said a liberal mailing policy is important for jail inmates to keep employment avenues open as well.

He noted the U.S. Bureau of Prisons doesn’t have Draconian policies on correspondence and neither do most state prisons. “If prisoners in state and federal facilities are allowed to receive letters and books, pre-trial detainees should be able to do so, as well,” he said.

Not all state prisons are playing ball with *Prison Legal News*. Weber said Florida reneged on a deal made in 2004 to allow the publication over the wall.



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Modern-Day Slavery in America’s Prison Workforce

Why can’t we embrace the idea that prisoners have labor rights?

by Beth Schwartzapfel

LAURIE HAZEN HAS BAD TASTE IN MEN. “They’re my downfall,” the 41-year-old jokes in her Massachusetts accent. “I have to really stay single.” An ex-boyfriend first introduced her to prescription drugs, she says, a habit she maintained through the course of another relationship, with another addict, and through two stints in prison, most recently in 2012 for writing fake prescriptions.

When she arrived at the Massachusetts Correctional Institution in Framingham, Hazen left behind a job as a records manager for a fiber-optics company. Her \$14-an-hour salary had covered food, utilities and rent on the modest apartment she shared with her boyfriend and her teenage son. She would have been putting some money away, too, if her paycheck hadn’t also been covering the couple’s drug habit. As it was, like many prisoners, she went to prison with no savings and, because her boyfriend was locked up too, had no one on the outside to send her money. Her son went to live with his dad.

After two weeks in prison, Hazen could apply for a job. Because her sentence was less than a year, she wasn’t eligible for the prison’s highest-paying job at \$20 per week — stitching American flags for the state police — and she had to choose between washing dishes in the kitchen and cleaning bathrooms. Because portions in prison are notoriously small, Hazen took the kitchen job so she could eat a little extra before and after her shifts. She earned \$2 a day collecting dirty trays and loading them into the dishwasher during breakfast, lunch and dinner. The cramped room where she worked had no windows and routinely filled with steam from the 200-degree dishwasher. There was one tiny fan. “It was pretty much slave labor,” she says, “but there was nothing I could do about that. I needed stamps to write to my child. I needed hygiene products.”

About half of the 3.6 million Americans serving time in state and federal prisons have full-time jobs like Hazen did. They aren’t counted in standard labor surveys, but prisoners make up a sizable workforce: with 870,000 working prisoners, roughly the same number of workers as in the states of Vermont and Rhode Island combined. Despite decades’ worth of talk about reforms — of giving prisoners the skills and resources they need to build a life after prison — the vast majority of these work-

ers, almost 700,000, still do “institutional maintenance” work like Hazen’s. They mop cellblock floors, prepare and serve food in the dining hall, mow the lawns, file papers in the warden’s office, and launder millions of tons of uniforms and bed linens. Compensation varies from state to state and facility to facility, but the median wage in state and federal prisons is 20 and 31 cents, an hour, respectively.

Because prisoner workers are not considered “employees” under the law, they have none of the protections that word implies. No disability or worker’s compensation in the event of an injury. No State Security withholdings, sick time or overtime pay. In three states — Texas, Georgia and Arkansas — they work for free. In Texas, where prisoners are required to work under threat of punishment, most do maintenance tasks like Hazen, but some are assigned to “field force” jobs designed to be particularly demeaning. “It wouldn’t be an ideal job,” says Jason Clark, Texas Department of Criminal Justice public information officer director. “Someone may have had disciplinary issues, so they end up in the field force, doing various things including clearing fence lines. They’re out under armed-guard supervision, using their labor.”

If that scenario sounds familiar, it should. “Thousands of prisoners toil in the hot sun every day and make nothing,” says Judith Greene, a researcher and advocate with the nonprofit group Justice Strategies. “Prison guards on horseback, ten-gallon hats, prisoners in their uniforms. It looks like what it is: plantation labor all over again.”

Critics trace the current system back to convict-leasing, which historian Douglas

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“They claim the reason is the content of our advertising. PLN carries ads for services prisoners are not allowed, such as for pen pals and stamps,” Weber said. “Other states have policies like that, but they don’t ban PLN. They ban correspondence with the vendor.”

The lawsuit is pending in Tallahassee federal court.

Source: http://www.dailybusinessreview.com/PubArticleDBR.jsp?id=1202634255622&Justice_Watch_Prison_Legal_News_Is_Filing_Winning_Federal_Lawsuits&slreturn=20131123093819

Battling Censorship Behind Bars

How Prisons and Jails Are Barring Inmates' Access to Legal News, Literature, and Letters

By Andrea Jones
The American Reader
May 2013

In November 2008, a mail-order book addressed to Lou Johnson arrived at the Hilltop Unit, a state prison for women located in Gatesville, central Texas. Written by investigative journalist Silja Talvi, the book was titled *Women Behind Bars: The Crisis of Women in the U.S. Prison System*, and chronicled the past decades' sweeping upsurge in female incarceration as told through the stories of prisoners across the country. Talvi's interviews cast light on the common threads of trauma and abuse these women shared, the increase in nonviolent drug charges that put them behind bars, and the troubling conditions they found inside.

Johnson, one of the women interviewed for the project, described the harsh and humiliating circumstances she endured at the Texas Department of Criminal Justice (TDCJ) facility. Denied adequate medical care, refused meals for minor infractions such as talking in line, and forced to clean pipe chases "covered with fecal material" without gloves, Johnson summed up her experience as "cruel and unusual punishment."

But Johnson was barred from reading her own account in print, as well as from accessing the testimonies of the one hundred other female prisoners interviewed for *Women Behind Bars*. By the time her copy arrived at the Hilltop Unit mailroom, the book had already been censored at another TDCJ facility. Johnson received a form explaining that an offending passage on page 38 depicted "sex with a minor," therefore the publication as a whole was "detrimental to offenders' rehabilitation" because it would encourage "deviant criminal behavior." She attempted to appeal the decision to no avail; having never received the book to review the contents of page 38, she was in no position to present a compelling rebuttal.

"Prison walls do not form a barrier separating prison inmates from the protections of the Constitution," the U.S. Supreme Court found in its 1987 *Turner v. Safley* decision. While inmates are not entitled to full First Amendment rights, any encroachment on their freedom of speech must be "reasonably related to legitimate penological objectives."

While both publishers and prisoners have standing to challenge prison censorship policies that restrict opportunities to send and receive literature, in practice publishers are far better equipped—they are free from the legal restrictions that bind the incarcerated, and can actually access the material in question. But commercial magazines and booksellers rarely act upon notice that the material they've mailed has been seized or withheld; prison inmates don't represent a sufficiently marketable demographic.



Images of California's extreme prison overcrowding

Women Behind Bars, however, was distributed by *Prison Legal News* (PLN), which, as the only national publication whose majority of contributors and subscribers are state and federal prisoners, is deeply invested in combating prison censorship. "That's our core constituency," says editor Paul Wright. Wright founded the magazine in 1990 while serving out a sentence for first-degree murder in Washington State. As a twenty-one-year-old military policeman, Wright was broke and a week away from completing his service when he tried to rob a cocaine dealer who turned out to have a gun. Wright panicked and shot first, and was sentenced to twenty-five years.

In prison, he worked as a book fetcher at the facility's law library, and grew interested in prison conditions litigation. With fellow inmate Ed Mead, he began PLN as a ten-page hand-typed newsletter with a readership of just seventy-five aimed at raising political consciousness and informing prisoners of their rights. The censorship was immediate. In 1991, Wright reported on pervasive racism at Washington's Clallam Bay Corrections Center, and a specific incident in which a group of white guards brutalized a black inmate. Prison authorities redacted the incriminating sections for circulation inside Clallam Bay, and when they found out that PLN had been distributed to subscribers outside of the facility, subjected Wright to three weeks of solitary confinement.

Wright, who was released in 2003 after serving seventeen years of his twenty-five year sentence, says that over the past few decades, censorship practices in prisons and jails have grown startlingly worse. PLN—which now has 7,000 print subscribers in all fifty states, with reader surveys indicating that each issue is passed around to ten different inmates—has faced blanket censorship in over ten state prisons systems, and countless bans in local jails across the country. The magazine was impelled to establish the Human Rights Defense Center, a legal nonprofit dedicated to protecting subscribers' right to read. It also launched a book publishing operation to distribute titles that, despite limited commercial appeal, are vital to incarcerated populations, such as *Prisoners' Self Help Litigation Manual*, *Hepatitis and Liver Disease: What You Need to Know*, and *Beyond Bars: Rejoining Society After*

Prison. Which brings us back to Texas.

Page 38 of *Women Behind Bars*, it turned out, described the childhood ordeals faced by Tina Thomas, a neurologist and professor in a teaching college who battled drug addiction late in her career:

What is even more remarkable about Thomas is that she had overcome the kind of childhood trauma that might have completely derailed her adult life. It might have been precisely that background that first propelled her to become an overachiever and attain a high level of professional success, but then came back to haunt her just as she had gotten to where she wanted to go. The dark secret of her life was that she had been forced to perform fellatio on her uncle when she was just four years old. Thomas explains that this unresolved trauma became “the template for a lifetime of distrust, fear, uncertainty, and a spirit of self-negation.”

“Fellatio” was the word flagged by TDCJ as depicting “sex with a minor.” Despite the fact that the controversial passage was more likely to prevail upon readers who had endured similar traumas that theirs was not a solitary struggle, *Women Behind Bars* was withheld from Texas prisoners for its purported encouragement of “deviant criminal behavior.”

In 2009, PLN filed a lawsuit against TDCJ for censoring *Women Behind Bars*, as well as additional incarceration-related books it had attempted to send to prisoners in Texas. The complaint alleged what amounted to pretextual censorship: the statewide system—the largest in the country—was using cherry-picked words or phrases as grounds to ban entire books, many of which were literary classics, award-winners, or collections of artwork. Even more unsettling was the department’s widespread censorship of works discussing civil rights issues, and works critical of prison conditions or corruption. In the course of litigation TDCJ’s banned books list finally surfaced; it included nearly 12,000 volumes.

On its face, the prison system’s policy set off few alarms. The policy called for banning books containing contraband; instructions for the manufacture of explosives, weapons, or drugs; suggestions for escape schemes; sexually explicit images; material designed to provoke strikes, gang violence, or rioting; and subject matter encouraging deviant criminal sexual behavior.

These rules were twisted, however, to lift passages or images out of context, and once one facility banned a text, it was prohibited on a statewide scale. Each book was allowed only one appeal (often undertaken by inmates in the same Catch-22 scenario as Johnson) before being permanently censored.

As noted by the Texas Civil Rights Project, the majority of banned books fell into the two most nebulous threat categories: promoting deviant sexual behavior, and inciting disorder through strikes, gang violence, or riots. Wide tracts of literature grappling with challenging themes like race, sex, and



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Prosecutorial Misconduct: Taking the Justice Out of Criminal Justice

by Christopher Zoukis

The prosecutor has more control over life, liberty, and reputation than any other person in America. His discretion is tremendous... While the prosecutor at his best is one of the most beneficent forces in our society, when he acts from malice or other base motives, he is one of the worst.
—Former U.S. Attorney General Robert Jackson

IN A RECENT CASE BEFORE THE U.S. COURT of Appeals for the Fourth Circuit, veteran judge Henry F. Floyd offered a rare public rebuke of federal prosecutors in North Carolina, who, the court found, had engaged in a pattern of misconduct. “Mistakes happen,” Floyd wrote. “Flawless trials are desirable but rarely attainable. Nevertheless, the frequency of the ‘blubs’ [committed by the prosecutors] raises questions regarding whether the errors are fairly characterized as unintentional.”

“Yet the United States Attorney’s office in this district seems unfazed by the fact that discovery abuses violate constitutional guarantees and misrepresentations erode faith that justice is achievable,” he added. “Something must be done.”

To demonstrate the seriousness of the violations, the appellate court ordered a new trial for federal prisoner Gregory Barbo, who had been convicted in 2010 in conjunction with a conspiracy to sell millions of dollars in fraudulent securities. See: *United States v. Barbo*, 728 F.3d 327 (4th Cir. 2013), *cert. denied*.

As an additional sanction, the Fourth Circuit panel said it would present its concerns to U.S. Attorney General Eric Holder, who is ultimately responsible for the actions of federal prosecutors, and to the Department of Justice’s Office of Professional Responsibility.

Judging from several decades of data demonstrating there is virtually no accountability for both state and federal prosecutors, it is unlikely that the prosecutors in the *Barbo* case will face sanctions for their misconduct. Indeed, prosecutors appear to enjoy special dispensation for abuses committed in the pursuit of justice—few are ever held accountable or face meaningful discipline.

This article examines the pervasiveness of prosecutorial misconduct in the U.S. justice system and the broken and inadequate means of preventing and punishing such wrongdoing. *Prison Legal News* has reported extensively on abuses by prosecutors, which have resulted in untold numbers of compromised trials, unfair sentences and wrongful convictions.

Prevalence of Prosecutorial Misconduct

PROSECUTORIAL MISCONDUCT IS, IN THE words of noted Harvard Law School professor Alan Bershtowitz, “ rampant.” Due to the lack of a uniform reporting body—each state has its own attorney discipline system—the number of criminal cases affected by prosecutorial abuses is unknown. Research studies have shed some light on this subject, though.

A 2003 report by the Center for Public Integrity, a nonprofit government watchdog group, examined more than 11,400 allegations of prosecutorial misconduct in appellate rulings between 1970 and 2003. In 2,912 of those cases (17.9%), misconduct by prosecutors led to dismissals, sentence reductions or reversals. Few prosecutors, however, were sanctioned for the violations cited by the appellate courts; only 44 faced disciplinary action, and seven of those cases were dismissed.

A comprehensive 2009 study by the Northern California Innocence Project examined 707 cases in which California appellate courts found prosecutorial misconduct between 1997 and 2009. Of those cases, the misconduct in 159 was deemed “harmful.” The study noted that 67 prosecutors were found by the courts to have committed multiple infractions; however, during that time period just six were disciplined.

While most criminal cases are handled by state and local prosecutors, federal prosecutors—popularly viewed as having higher

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poverty were denied at the discretion of prison authorities, with no clear link to penological objectives. Books by Pulitzer Prize-winning authors like Jeffrey Eugenides, Sinclair Lewis, Norman Mailer, Annie Proulx, Philip Roth, Art Spiegelman, Wallace Stegner, John Updike, Robert Penn Warren, and Alice Walker were deemed unfit. The *Color Purple*, for example, was banned for its opening scene of sexual abuse—Celie’s ensuing struggle for empowerment amid racism and patriarchy were of no value according to TDCJ’s mailroom inspectors.

Some denials were so absurd they barely merit mention (the Renaissance painting depicting a naked Cupid on the cover of Shakespeare and Love Sonnets as “sexually explicit,” for instance). But broad trends were evident. Racial slurs, in allegedly threatening to ignite antagonisms, were identified as an easy premise for censorship, never mind the historical context in which they were cited. Kevin Boyle’s *Arc of Justice: A Saga of Race, Civil Rights, and Murder in the Jazz Age*—which traces the trial of Ossian Sweet and residential segregation in 1925 Detroit—was censored because of slurs attributed to members of a white mob: “‘There goes some niggers now,’ came the cries. ‘Lynch them! Kill them!’ A gang of white men surged toward the car...” Far from inciting violence, Boyle’s account gives insight into one of the century’s great civil rights campaigns, and was a recipient of the National Book Award for Nonfiction and the Simon Wiesenthal Center’s Tolerance Book Award.

Even in explicitly anti-racist frames of reference, like a segment on freedom of expression from *Chomsky on Anarchism*, the inclusion of derogatory language led to the work to be condemned:

“[V]ictories for freedom of speech are often won in defense of the most depraved and horrendous views. The 1969 Supreme Court decision was in defense of the Ku Klux Klan from prosecution after meeting with hooded figures, guns, and a burning cross, calling for ‘burying the nigger,’ and ‘sending the Jews back to Israel.’ With regard to freedom of speech there are basically two positions: you defend it vigorously for views you hate, or you reject it.”

Chomsky was censored for using racist language to prove a point, denouncing the “depraved and horrendous views” associated with it, while publications like *Mein Kampf* and *The Aryan Youth Primer: Official Handbook for Schooling the Hitler Youth* were somehow accepted by TDCJ without challenge.

Books incriminating prison institutions were overwhelmingly censored for mentioning rape, despite the topic’s critical relevance. *Prison Masculinities*, a collection of essays edited by prison mental health experts, was banned for its candid discussion of sexual assault and violence behind bars. *The Perpetual Prisoner Machine*, a look into the profit motives driving mass incarceration, was barred for quoting a 1968 report from the Philadelphia District Attorney’s Office on the problem’s prevalence in local jails. Even self-help and rehabilitative titles about the prevention of violent sexual behavior, like *Stopping Rape: A Challenge for Men*, and *Conspiracy of Silence: The Trauma of Incest*, were prohibited by TDCJ.

“Prison authorities like docile, uninformed masses of people because they’re easier to control and dominate,” says Wright. “You can’t divorce the issue of prison censorship from prison education. These policy choices ensure that prisoners, the majority of whom have very low literacy levels, are going to remain that way.” According to the Department of Education, “incarcerated adults have among the lowest academic skill levels and highest disability and illiteracy rates of any segment of our society.” Multiple studies have demonstrated that educational programming improves prison safety and reduces recidivism rates by providing problem-solving skills and minimizing tensions inside facilities, while preparing inmates for employment and community reintegration upon release. A 2004 study published in the *Journal of Correctional Education* collected a decade’s worth of research on post-secondary correctional education (PSCE), finding that “inmates who participated in PSCE recidivated 22 percent of the time and those not participating in PSCE had a recidivism rate of 41 percent.”

Although the number of Americans in state and federal prison systems has quintupled since 1980, funding for education behind bars has declined dramatically. President Clinton’s legislation designating anyone incarcerated in federal or state



The prison system’s idea of individualized mental health care in an over-crowded California facility

correctional facilities ineligible to receive Pell Grants in 1994 was the “death knell of higher education for prisoners,” says David Fathi, director of the ACLU’s National Prison Project. With responsibility for correctional education transferred to states now mired in budgetary crises, prisoners’ ability to self-educate becomes all the more essential. But in Texas, book denials continue to increase as inmate populations level off, and in states across the country, censorship in prisons and jails has outpaced growth.

In June 2012, a judge for the 5th U.S. Circuit Court of Appeals found that TDCJ’s censorship policies did not violate PLN’s First Amendment rights to distribute books critical of the prison system to Texas inmates. While *Women Behind Bars* was eventually taken off the banned books list in the course of the lawsuit, 12,000 titles remain. While acknowledging the disparity between TDCJ’s policy and practice, Judge Edith Brown Clement showed deference to prison administrators, contending that the role of the federal courts is not to “sit as permanent appeals councils reviewing every individual censorship decision made by state corrections institutions.” But according to Wright, because “the legislative and executive branches are paralyzed when it comes to criminal justice issues, we’re left with piecemeal litigation as our only mode to address this, subject to the whims and mercy of the court.” He adds, “There’s not going to be any meaningful challenge of the books that have been censored.”

While PLN has achieved major victories—the magazine has obtained consent decrees in nine states compelling prisons to deliver to subscribers—the decentralized structure of our penal system means the campaign is never-ending. In Michigan, Georgia, and Arizona county jails, PLN is currently challenging “postcard policies,” a draconian new trend that limits incoming and outgoing mail to what can fit on a postcard. Not only are postcards more expensive than letters sent in envelopes, but they stifle correspondence between incarcerated people and their families and communities by airing in plain sight content that might be medical, financial, or personal. Such restrictions strain social ties that have proven pivotal in successful reentry. According to PLN

managing editor Alex Friedmann, postcard policies are “just another way for facilities to reduce communication, and thus criticism.” Because jails—where those pending trial or serving shorter sentences are usually held—are local operations outside the scope of the state system, they tend to display the most egregious cases of censorship (with the ACLU, PLN recently won a case against a South Carolina jail that outlawed all reading material outside of the Bible). Without centralized policy to dispute, PLN must litigate on a case-by-case basis.

PLN is also currently up against the Florida Department of Corrections (FDOC), which censors the magazine on the basis of its advertising content—PLN carries ads for pen-pal programs and discount telephone services that the FDOC does not allow. Claiming a nexus between censoring PLN and preventing services that the magazine advertises for but does not actually provide, the FDOC has asserted a threat to prison security. “They’re completely relieved of any evidentiary burden,” Wright notes. “You say this is going to happen, but where’s the evidence?”

As with book banning in Texas, Friedmann contends it’s a pretext: “They don’t like our content regarding misconduct and corruption by prison officials.” He points out that ads are incidental to the content of the magazine itself, and that other publications advertise prohibited material without any problem, like *TIME*, which runs ads for cigarettes. It’s true that PLN’s coverage of the FDOC has been uncompromising. In 1999, the magazine reported on Frank Valdez, an outspoken inmate who allegedly contacted the media about abuses at Florida State Prison (FSP) under then warden James Crosby. Valdez was found stomped to death inside his cell. The guards charged in Valdez’s death were bafflingly acquitted by a jury in a North Florida town where FSP was a leading employer, despite evidence of their boot prints on his back. PLN covered Florida’s negligent treatment of mentally ill prisoners, and published a series tracking a corruption scandal that erupted in 2006, involving guards dealing steroids, sexual assault, and the sentencing of Crosby—who by that point had been promoted to FDOC Secretary—to eight years for accepting bribes. “These are things PLN has done a pretty good job of reporting on over the years,” Wright explains. “None of which have ingratiated us to prison officials.” A trial is scheduled for August.

Wright sees the censorship plaguing prisons not as an isolated trend, but rather as representative of the increasing encroachment of the American police state. He lists changes he’s observed on the outside since his reentry in 2003: the aggressive prosecution of whistleblowers, retaliatory arrests for videotaping police officers, even increases in Google takedown requests issued by government agencies. “I think this is part of a greater silencing,” he explains, “but with prisoners it’s a bit more pronounced because they’re a more vulnerable population.” Indeed, it’s difficult to determine what legitimate penological objectives are advanced by restricting prisoners—95 percent of whom will eventually be released into their communities—from accessing literature, staying apprised of their rights, communicating with their families, and resisting alienation through journals like PLN.



Prisoners undergoing group therapy in an over-crowded prison

Policy Change Lets Inmates Receive Magazines, Books in Mail

By Janine Anderson
Kenosha News, Wisconsin
June 26, 2014

Magazines, books and other publications now can be sent directly to inmates in Kenosha County’s detention facilities after the county agreed to change its policy following a federal lawsuit.

Prison Legal News sued the county last summer, claiming the county’s policy prohibiting delivery of periodicals, magazines, books and other publications violated rights granted by the First Amendment. *Prison Legal News* publishes and distributes a journal of corrections news and analysis, as well as books about the criminal justice system.

The company mailed copies of its publication and some soft-cover books to 29 specific prisoners in the Kenosha County Jail, and they were rejected and returned with stamps reading “refused” and “return to sender,” along with a white sticker with a checked box indicating “no books/magazines,” according to the complaint filed in federal district court.

The county and *Prison Legal News* reached a settlement, part of which required the Sheriff’s Department to change its policy on publications that can be sent to inmates. According to the settlement, the county continues to “dispute and deny liability” but agreed to settle to “avoid the expense, delay, uncertainty, and burden of litigation.”

The county’s attorney, Ryan Braithwaite, said the new policy allowing publications to be sent to inmates has been in place since the end of January. The old policy was put in place in 1985, he said.

“There weren’t really any issues, so nothing was brought to (the county’s) attention until the lawsuit was brought,” he said. “We immediately looked at it, realized it was out of date and updated it to allow magazines and books with some restrictions on content.”

Braithwaite said nobody knew why the old policy was put in place, but he said there was “a concern about staples that was mentioned.” The new policy includes content restrictions for things like information that would pose a threat to the safety or welfare of the institution or if there was sexual or lewd content.

Prison Legal News attorney Jon Loevy commended the county “for fixing an unconstitutional policy and bringing it into compliance.”

“To their credit, rather than spending taxpayer money fighting a losing battle, they decided to make the policy compliant with the First Amendment,” he said. “Prisoners have rights, too. Nobody wants to live in a society where even incarcerated people are censored or denied access to materials about what’s going on in the world.”

That publication is now being delivered to inmates, Loevy said.

Another part of the settlement was monetary. The county agreed to pay \$116,500 to *Prison Legal News*.

Braithwaite called that “the ransom that *Prison Legal News* demanded.” Federal law allows plaintiffs to recover attorney’s fees, and Loevy said that’s what the payment covered.

Terms of the settlement

The county will pay Prison Legal News \$116,500. Prison Legal News’ journal and its other books and publications will be delivered to inmates and detainees at the jail. The county will no longer have any “blanket bans” on books, magazines, newspapers or other publications sent to inmates or detainees. If publications, correspondence or documents are rejected, senders and recipients shall receive written notice and information about how to appeal the decision. The county must also post the new policy in the jail and detention facility, include it in the inmate handbook and post it online.

However, the policy is not yet available on the jail website.

Source:http://www.kenoshanews.com/news/policy_change Lets_inmates_receive_magazines_books_in_mail_477697783.html

Federal Court Rules Postcard-Only Policy in Ventura County Jails is Unconstitutional

By Cindy Von Quednow
Ventura County Star, California
May 30, 2014

A U.S. District Court has ruled that the Ventura County Sheriff’s Office policy that allows jail inmates to receive only postcards is unconstitutional.

The policy prevents inmates from receiving mail such as *Prison Legal News*, which responded by suing Sheriff Geoff Dean, Assistant Sheriff Gary Pentis and commanders in charge of the county’s two jails.

“We are very pleased the judge is upholding the constitution,” Paul Wright, editor of *Prison Legal News*, said in a statement.

Ernest Galvan, an attorney representing the publication, had previously told The Star that the policy violates First Amendment rights of inmates and their loved ones outside of jail partly because they cannot receive mail that could be beneficial to their future.

Prison Legal News, a project of the Florida-based Human Rights Defense Center, focuses on inmate rights, court rulings and news regarding correctional facilities across the country.

The publication — sent to inmates, attorneys and others nationwide — has successfully challenged similar jail policies in South Carolina, Georgia and Texas, officials said. No other jail in California apparently has such a policy.

A motion for a preliminary injunction to stop the postcard-only practice was granted Thursday. The Sheriff’s Office now has 21 days to suspend the policy for incoming mail and has 30 days to file an appeal. It also must give senders of rejected mail a written notice and opportunity to appeal the rejection.

The postcard-only policy was adopted in October 2010 to prevent drugs, weapons and large amounts of cash from being smuggled into jail in envelopes, officials say.

Postcards sent to the two jails must be no larger than 6 by 11 inches. Magazines, newspapers, books, packages and booklets are allowed only if sent directly from the publisher or an authorized retail distributor, according to the Sheriff’s Office. Everything sent to the jail is subject to inspection and will be returned to the sender if it does not meet the requirements.

Officials originally prevented inmates from sending outgoing mail in envelopes as well but later dropped that restriction.

In a 2012 lawsuit, inmates represented by the Ventura County Public Defender’s Office alleged the postcards-only policy limited their ability to communicate with clergy, doctors, relatives and friends. The policy, however, was upheld by a Ventura County Superior Court judge.

Source: <http://www.vcstar.com/news/federal-court-rules-postcard-only-policy-in-is>

Texas Court Rules CCA is a “Governmental Body” in PLN Public Records Suit

Private Prison Must Provide Information

Courthouse News Service
March 20, 2014

AUSTIN, Texas (CN) - A state judge ruled Wednesday that the nation’s largest private prison company, the Corrections Corporation of America, is a “governmental body” for purposes of the Texas Public Information Act, “and subject to [the] Act’s obligations to disclose public information.”

Prison Legal News sued CCA in Travis County Court in May 2013, seeking records on the Dawson State Jail in Dallas, which has closed. *Prison Legal News*, which publishes a monthly magazine, is a project of the nonprofit Human Rights Defense Center.

Prison Legal News said in a statement after the Wednesday ruling that the information it sought “would have unquestionably been made public had the jail been operated by a government agency.”

Private prisons in general, and CCA in particular, have come under fire from human rights workers as a way for states to dodge oversight and accountability. The Nashville-based prison company is paid per body per day, with the money coming from the governmental bodies that imprison the people. Yet the company and the states generally claim that how the public money is spent is not the public’s business.

“This is one of the many failings of private prisons,” *Prison Legal News* managing editor Alex Friedmann said in the statement. “By contracting with private companies, corrections officials interfere with the public’s right to know what is happening in prisons and jails, even though the contracts are funded with taxpayer money. This lack of transparency contributes to abuses and misconduct by for-profit companies like CCA, which prefer secrecy over public accountability.”

CCA runs nine prisons in Texas, four of them for state prisoners. The company is also very much into running immigration prisons.

“The conditions of Texas prisons have been the focus of intense public scrutiny for nearly 40 years,” Brian McGiverin, an attorney with the Texas Civil Rights Project, said in the statement. “Today’s ruling is a victory for transparency and responsible government. Texans have a right to know what their government is doing, even when a private company is hired to do it.”

Prison Legal News argued in its lawsuit: “Incarceration is inherently a power of government. By using public money to perform a public function, CCA is a governmental body” for

Prison Legal News

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In Washington State Prisons, Negligent Health Care Turns Illness into a Death Sentence

Ricardo Cruz Mejia went to prison, a murderer, he left a victim.

by Rick Anderson

RICARDO CRUZ MEJIA'S FINAL DAYS began with a stomach problem. It was October 2010. After the 26-year-old Walla Walla State Penitentiary prisoner discovered blood in his stool, he signed in at the prison infirmary. A test and exam turned up a severely inflamed colon. The onetime Latino gang member from Skagit County, doing 34 years for seven felonies including murder, was given hydrocortisone enemas and tabs of prednisone, used to treat inflammation. The prison medical staff also gave him sulfasalazine for abdominal pain.

In November, Mejia, a stocky, tattooed prisoner with a closely shaved head, began to experience other symptoms – headaches, sore throat, then vomiting. He also had begun to develop a rash, for which he was given penicillin, though it didn't seem to help.

In the ensuing days, he became a familiar figure to infirmary nurses. From December through the first week of January 2011, he showed up at the infirmary 14 times. Nurses dolled out a topical corticosteroid for skin inflammation and tried other drugs to ease his symptoms. Still, none alleviated the persistent, painful irritations and stomach problems.

On January 10, 2011, he arrived to tell medical staffers his sore throat was killing him – “It hurts to breathe,” he said, according to notes in his medical record. Staffers seemed stumped. His vital signs weren't taken and no new treatment was offered.

Mejia returned the next day and announced he was having what he called “a medical emergency.” In addition to his earlier symptoms, he had developed fever, blisters, sore joints and rectal pain. His pulse didn't even rise. During a phone chat with the nurse, he ordered Lidocaine, a topical pain-numbing gel.

Mejia returned to his cell. But his symptoms grew worse. At 4:30 the next morning, January 15, a medical staffer who visited Mejia in his cell underwent a brief examination and told him to come into the infirmary a few hours later.

When the prisoner showed up at 7:30 a.m., he was seated uncomfortably in a wheelchair. He was unable to sit and was experiencing diarrhea. His pulse, temperature and blood pressure were all rising and

to experience other symptoms – headaches, sore throat, then vomiting. He also had begun to develop a rash, for which he was given penicillin, though it didn't seem to help.

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purposes of the Texas Public Information Act.

Judge Charles Ramsay agreed, in a 1-page order granting summary judgment.

Source: <http://www.courthousenews.com/2014/03/20/66349.htm>

Department of Corrections to Pay \$740,000 in Inmate's Death

By Brian M. Rosenthal
Seattle Times
April 2, 2014

The state Department of Corrections has agreed to pay \$740,000 to the family of an inmate who died in custody after suffering from a painful and treatable illness.

Ricardo Mejia, 26, died in January 2011 after developing flesh-eating bacteria so severe that it eventually forced doctors to remove his rectum. But before it came to that, he had complained for weeks about pain and a rash, state records show.

The former inmate’s family claimed in a lawsuit that the staff at the Washington State Penitentiary in Walla Walla misdiagnosed the problem.

“While in state custody, Ricardo Mejia’s medical providers ignored obvious signs of infection and serious illness and he literally rotted to death under their care through negligence and deliberate indifference,” according to the lawsuit.

One of those providers, physician assistant Kenneth Moore, was charged with unprofessional conduct by a Department of Health commission, but the charge was dismissed. He is still working at the prison, according to the state.

The settlement did not include an admission of wrongdoing. A state Department of Health investigation into the death earlier found “deficiencies” in Mejia’s care.

The death caused the Department of Corrections (DOC) to order several changes at the prison, including more clearly identifying a doctor for each inmate, ensuring each admission to the medical unit is discussed with supervisors, establishing regular weekday medical-staff meetings and educating all staff about flesh-eating bacteria, spokeswoman Norah West said.

“Anytime an incident like this occurs, we take it very seriously,” West said.

Janelle Guthrie, a spokeswoman for the state Attorney General’s Office, said the office could not say how the amount of the settlement compared with others involving DOC.

Paul Wright, executive director of the Human Rights Defense Center, which represented the family in the lawsuit, said this was one of the state’s biggest-ever settlements related to the medical treatment of an inmate.

More important, he said the case is notable because it shows that officials have not done enough to combat the “dismal state of medical care in Washington state prisons.”

Wright, a former inmate himself who served 17 years for murder, said “The news is that, after all the litigation, all the news coverage, very little has changed.”

He pointed in particular to the case of Charlie Manning, a Mason County man who lost his penis and a testicle to flesh-eating bacteria while at Stafford Creek Corrections Center in Aberdeen, serving a 13-month sentence for threatening his neighbor and stealing the man’s pistol in a drunken argument.

Manning received \$300,000 in a 2008 settlement. “Whatever they did (after the Manning settlement), if they did anything,” Wright said, “obviously didn’t help Ricardo Mejia.”

West, the spokeswoman for the Department of Corrections, said she didn’t know if anything was changed after the Manning case.

Mejia, who was in prison on a murder, had a history of rectal bleeding and was treated for a rash and other problems starting in the fall of 2010, according to a Department of Health investigation.



Condition of a cell in an overcrowded prison

He saw prison-medical staff 14 times between Nov. 29, 2010, and Jan. 10, 2011, but continued to report being in pain.

On Jan. 11, he said he had a “medical emergency” and was eventually admitted to the prison’s medical unit.

On the morning of Jan. 15, Moore, the physician assistant, “noted that he anticipated (Mejia) would improve and return to inmate housing within a few days,” according to the investigation.

Mejia was taken to a nearby hospital that afternoon and airlifted that evening to Sacred Heart Medical Center in Spokane, where he had surgery. He died the next day.

Mejia’s children will benefit from the settlement.

Although the settlement was finalized in December, family members waited to publicize it until receiving the money because they were afraid the state would not follow through with the agreement, Wright said.

Source: http://seattletimes.com/html/localnews/2023288048_docsettlement.xml.html

Columbia County Must Pay \$802,000 In Legal Costs Over Unconstitutional Inmate-Mail Policy, Judge Says

By Helen Jung
The Oregonian
March 25, 2014

[On March 26 the article was updated with a comment from an attorney representing Columbia County and additional details.]

A federal judge has ordered Columbia County to pay more than \$800,000 in attorneys’ fees and costs to *Prison Legal News*, after the publication prevailed in its lawsuit challenging

the constitutionality of the county jail's inmate mail policies.

U.S. District Judge Michael Simon largely turned aside the county's arguments to deny or slash the requested fees and costs to *Prison Legal News*, a monthly magazine published by the Human Rights Defense Center, which advocates for prisoners' rights. He said their attorneys' fees were reasonable and in line with the market rate, although the award is 10 percent lower than what the plaintiffs sought.

The order, issued Monday, comes almost a year after Simon sided with *Prison Legal News* in finding that the Columbia County jail's policy of allowing only postcards to be delivered to inmates violated the 1st Amendment. He permanently blocked the jail from implementing the postcard-only policy, which he said, lacked a "common-sense connection" with its supposed goal of enhancing security. The jail already had been opening and inspecting mail and officials conceded there was not a known problem of people sending contraband through letters.

Instead, the policy blocked inmates from receiving items such as children's report cards, medical records, bills and news articles, Simon noted in his findings of fact.

Simon also declared the jail's practice of not delivering magazines, including the monthly *Prison Legal News*, similarly violated the 1st Amendment. He also found that the jail's failure to notify inmates that their mail has been rejected nor provide a way to appeal such rejections, violated their 14th Amendment right to due process.

After Simon's decision, the county agreed to pay \$15,000 to *Prison Legal News* for damages it sustained in not being able to deliver its publication. *Prison Legal News* then also sought \$848,670.50 for attorneys' fees.

Simon opted to award 90 percent of that sum -- \$763,803.45 -- in attorney fees to the plaintiff's legal team of five lawyers and four paralegals. The attorneys' rates ranged from \$210 for an attorney with two years of experience to \$400 an hour for two lawyers with decades of experience. The paralegals' rates ranged from \$90 an hour to \$175 an hour for an investigator/senior paralegal.

He shaved off 10 percent over concerns regarding the number of hours spent on a few tasks. He also ordered the county to cover all \$38,373.01 in litigation costs.

The postcard-only policy that Simon declared unconstitutional has been adopted by many jails across the country. *Prison Legal News* has sued jails in other states over the policy, reportedly adopted first by Maricopa County Sheriff Joe Arpaio in Arizona.

Columbia County Sheriff Jeff Dickerson declined to comment. But Steve Kraemer, an attorney representing the county, said in an email "we were surprised and disappointed in the amount of attorney fees awarded, especially considering the Sheriff only enacted the postcard policy after receiving

reliable and accurate information that similar policies had been held constitutional in other states," he said. He added that the county had admitted many of the constitutional violations alleged by the plaintiff, "made immediate changes to its procedures," and had offered *Prison Legal News* more than what they ultimately paid to compensate the publication for its damages. *Prison Legal News* rejected the offer.

But the defendants' offer for \$21,000 did not include an agreement to a judgment declaring the mail policies unconstitutional. Nor were the defendants willing to accept a permanent injunction blocking Dickerson -- or anyone else elected to the sheriff position -- from reinstating the postcard-only policy, the publication argued in its filings.

The county's insurance carrier has not yet decided whether to appeal the attorney fee award, Kraemer said. Getting paid for your work is certainly welcome, said Jesse Wing, one of the attorneys who represented *Prison Legal News*. But the significance of the case comes from Simon's declaration of the unconstitutionality of the postcard-only practice.

"There's literally thousands and thousands of people who benefit from a ruling like this," he said. "From our perspective, it was a really poor choice for Columbia County to take this stand."

Source: http://www.oregonlive.com/portland/index.ssf/2014/03/columbia_county_must_pay_80200.html#incart_river_default

Inmate Mail Censorship Case Settled

By Mac Overton
The Gilmer Mirror, Upshur County, Texas
March 2014

A lawsuit, alleging censorship of inmate mail by the Upshur County Jail, has been settled in the plaintiff's favor.

Prison Legal News settled the lawsuit for \$175,000.

Named as defendants in the suit, which was filed in October, 2012, were the county, Sheriff Anthony Betterton and Sheriff's Lt. Jill McCauley.

The suit stated that Upshur County Jail's inmate handbook contained "no written criteria explaining when a publication will be rejected," and the jail's mail policy "did not provide a sender any notice or explanation when a book is censored," stated a story in the February, 2014, edition of *Prison Legal News* (PLN), reporting the settlement.

The story stated that PLN had mailed copies of its monthly magazine to prisoners at the Upshur County Jail, as well as letters, renewal notices, brochures and copies of a book, *Protecting Your Health and Safety*.

The article said that the jail rejected about 90 of PLN's

publications over a one-year period, stamping them “No Newspaper,” “Unauthorized Mail,” “Not Approved,” or “Refused.”

The article said “the jail also rejected legal mail sent to prisoners by PLN’s attorney. No notice was provided regarding this censorship, and PLN was not afforded an opportunity to appeal the rejection of its publications.

Lance Weber, general counsel for the Human Rights Defense Center (HRDC), the nonprofit parent of PLN was quoted in the article as saying “The purpose of jail is to hold the criminally accused for trial, not to punish them. Depriving pretrial detainees too poor to afford bail, who are presumed innocent—of access to information that could assist them in enforcing their rights is inexcusable.”

The article reported that on Sept. 30, 2013, a federal district court granted PLN’s motion for a preliminary injunction, finding that the withholding of at least some of the correspondence with prisoners “deprived the plaintiff, PLN, of its First Amendment rights without due process of law.”

While the jail had adopted a new mail policy before the granting of the preliminary injunction, and the court said that was a “clear improvement,” but that it “still falls short of establishing the minimum procedural safeguards constitutionally required to protect PLN’s First and Fourteenth Amendment rights without due process of law.”

The court also held that PLN was likely to prevail on the merits, and “Upshur County subsequently agreed to settle.”

The consent decree settling the case provides that the county will “implement a new Correspondence and Incoming Publication Plan at the jail, to include “disseminating a copy of the New Policy to all employees of the Upshur County Jail and confirming that each recipient has read the same, disseminating the New Policy to members of the general public by posting it conspicuously on a website maintained by or on behalf of the Upshur County Sheriff’s Office, and disseminating a copy of the New Policy to inmates by including it in the inmate handbook and by posting a copy in common areas for at least 14 days.”

The new jail policy provides that prisoners can receive periodicals, books, newspapers, brochures, magazines and other correspondence— “subject to specified security concerns.” It also provides that “both prisoners and those who send them mail will receive notification of any censorship by jail staff, and will have the opportunity to appeal same.”

The county also agreed to pay \$175,000 in damages, costs and attorneys’ fees.

PLN editor Paul Wright was quoted in the article as saying “We are pleased with the outcome of this case, though it could have been resolved much earlier, at much lower cost to Upshur County, had county officials acknowledged that the previous mail policy in effect at the jail was inadequate.”

Counsel Weber told The Mirror that “they fought us hard to keep us from being able to reveal that number.”

He said that they told the county’s attorneys that the settlement was public record, and that they would use it in their own magazine.

“We’ve already got the funds,” Weber said. “The case is closed up.”

Upshur County Judge Dean Fowler said the decision to settle was made by the county’s insurance carrier, the adjusters and the lawyers, not the county.

“Once the insurance company decides to settle, the insured really doesn’t have a choice,” the judge

Source: http://www.gilmermirror.com/view/full_story/24707969/article-Inmate-mail-censorship-case-settled?instance=home_news_lead_story

Franklin County Sheriff’s Office Sued: Witness Inside Jail Explains Conditions

By Don Granese
NBC Right Now, Pasco, Washington
August 6, 2014

The Franklin County Sheriff’s office faces a class action lawsuit that alleges inmates are mistreated and confined in ways that are unconstitutional.

Columbia Legal Services, a group that works to make sure Washington jails are following their legal obligations, believes the Franklin County Jail has the worst conditions in the state.

NBC Right Now was able to take a look at some of the claims from the lawsuit and get answers as to why this group believes some of the protocol followed in the jail could be unlawful. What we found is that Sheriff Richard Lathim isn’t denying some of the claims because he believes these actions to be the best way to keep inmates safe.

“Some of it’s just totally not true. What little bit is true is taken out of context or misrepresented and exaggerated,” explained Lathim.

Chaining inmates for days, pepper spraying without reason and denying any and all visitation are just some of those claims. The claims and the suit stems from pre-trial inmates in the jail and at this time they are simply just claims.

“We’ve had a couple inmates that have done thousands of dollars worth of damage and continue to do so even just a couple days ago.”

Lathim explains that many of these conditions including broken toilets and no lights in cells are because inmates are tearing up their own cells. They’re even breaking windows

and causing damage to the fairly new facility that opened up at the end of February.

“There were two prisoners that were handcuffed to the chain link fence that surrounds the guard station,” said Carrie Wilkinson.

It might sound like an alarming sight to see for someone like Wilkinson who was on her first visit ever interview in a Washington jail. The Senior Paralegal at the Human Rights Defense Center in Seattle visited to conduct interviews with inmates just last week. Columbia Legal Services pointed to her as a good witness for NBC Right Now to speak with.

“They were kind of just sitting out on a floor in the hallway chained to a fence.”

As the sheriff explained, that fence is a temporary holding area where inmates are placed until they are booked into the jail. A new booking center is under construction right now and will be able to hold those prisoners once it is complete. The lawsuit claims the new center isn’t enough and to place inmates where visitors can see them is a form of public humiliation.

“Everything is done to protect inmates, from themselves, from other inmates and also to protect the staff,” said Lathim.

The new booking area will also have cameras in each cell to monitor those destructive inmates and those who could be harmful to themselves. Whether or not the current conditions are constitutional is set to likely be hashed out in court. In the meantime those inmates suing the county sheriff’s office will still serve their time.

“We’re stuck with them and they’re stuck with us.”

Lathim says the construction of that new booking area is scheduled to be complete in about one month. It will have video conferencing setup for inmates with to easily meet with their visitors. It will also have new individual holding cells for inmates that need to be separated and watched closely.

Source: <http://www.nbcrightnow.com/story/26217750/franklin-county-sheriffs-office-sued-witness-inside-jail-explains-conditions>

Temple Completes Probe of Professors’ Prison Study

By Martha Woodall
Philadelphia Inquirer
July 16, 2014

Temple University has completed its review of an ethics complaint on a study conducted by two professors that described economic savings from private prisons - without disclosing that they had received funding from the prison industry. The university, however, will not disclose the

findings or say whether any action was taken against the authors.

“It’s a personnel matter,” Brandon Lausch, a Temple spokesman, said Wednesday. “I can’t go into details.”

He said the examination was concluded July 2.

“They are fairly close-mouthed about their investigation,” said Alex Friedmann, managing editor of the *Prison Legal News* and associate director of the Human Rights Defense Center, who filed the ethics complaint with Temple in June 2013.

He alleged that when economics professors Simon Hakim and Erwin Blackstone released a working paper in April 2013, they did not properly disclose that they had received financial support from private prison operators, including the Nashville-based Corrections Corp. of America, the nation’s largest private corrections company.

In op-ed newspaper articles, the professors wrote that their research had found that privately run prisons worked as well as or better than government-run institutions and could provide long-term savings to taxpayers of 12 percent to 58 percent.

Neither of the longtime Temple faculty members could be reached for comment Wednesday.

Friedmann said he received a letter this month from Michele Masucci, Temple’s interim senior vice provost for research, informing him that she had completed her review of his complaint. She said the university would “address its conclusions, including any action” to Hakim and Blackstone individually.

Masucci told Friedmann that the professors’ working paper had been withdrawn and was no longer widely available, and that the research had received no university grant money.

Last month, Hakim and Blackstone told an *Inquirer* reporter that they had been conducting similar research for decades and always disclose funding sources when they publish their final report.

Lausch, the Temple spokesman, said the final version of their report, “Prison Break, A New Approach to Public Cost and Safety,” was published last month by the nonprofit Independent Institute in Oakland, Calif.

The report says the study was funded in part by the private corrections industry.

ColorOfChange, an online civil rights organization based in Oakland, which recently mounted a campaign in support of Friedmann’s ethics complaint, said Wednesday that nearly 25,000 of its members had sent e-mails to Temple.

Source: http://www.philly.com/philly/education/20140717_Temple_completes_probe_of_profs__controversial_prison_study.html

Editorial: FCC Right to Scrutinize Exorbitant Prison Phone Fees

By *Seattle Times* Editorial Board

The FCC is finally putting the outrageous costs for telephone calls from prison under the regulatory spotlight.

One out of 28 children in the U.S. has a parent in prison or jail, a rate so astonishing, and growing, that Sesame Street felt the need to add a fuzzy little blue-haired character, Alex, to talk about his locked-up dad.

Keeping the Alexes of the nation — 2.7 million children — connected with an incarcerated parent is vital. Maintaining family bonds between inmates and their kin has been shown to be one of the best ways of reducing recidivism. That's why smart state and local prison systems — including those in Washington — have strong family-focused policies.

Yet, prisons and jails across the country — including in King County and around Washington — artificially raise the cost of telephone calls from behind bars. Contracts between detention facilities and telecom providers commonly include a “commission” paid back to the prison or jail.

Washington's contract with prison phone provider Global Tel Link required a 51 percent commission on gross revenue, guaranteeing the Department of Corrections at least \$4 million a year. King County's jail has a 58 percent commission.

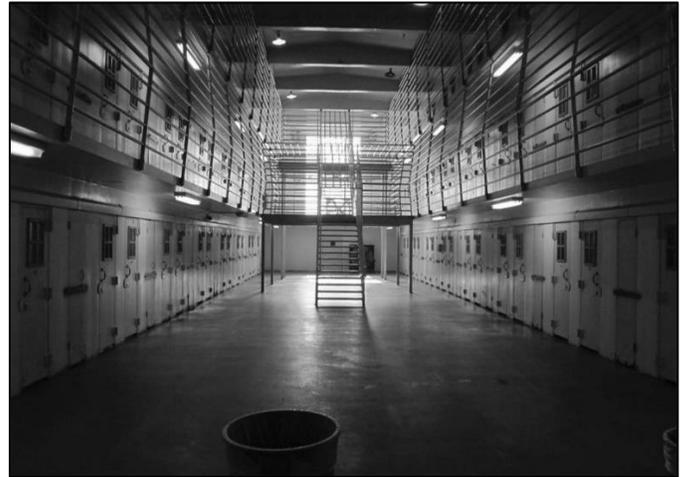
These are kickbacks, most commonly paid by inmates' families for doing the very thing that research suggests will lower crime: staying in touch.

In a little-noticed announcement last week, the Federal Communications Commission took aim at the sky-high rates of prison phone calls. It soon will begin taking public comments on the cost of in-state calls, as part of a comprehensive reform proposal. A cap on commissions is among the proposals.

Prison administrators defend commissions as a revenue source that pays for amenities behind bars such as education, a legal library or, in the case of King County Jail, staff for the jail commissary. A quarter of state DOC commissions goes to the crime victims' compensation fund.

Regardless of those intentions, inmates' families should not be taxed to stay in touch. That is a clear example of public policies being at cross-purposes: short-term revenue gained at the expense of long-term recidivism.

This is not a new issue. A petition filed by the grandmother of an inmate has been before the FCC since 2003. In February, the regulator moved to cap costs of interstate calls from



prison, and call volume across state lines went up 70 percent in some facilities.

But since then, “already outrageous costs” for in-state calls inched up, as prisons and jails jacked up their commission rates, according to FCC Commissioner Mignon Clyburn.

“In my 16 years as a regulator, this is the clearest, most egregious case of market failure that I've seen,” she said in a statement.

There is no rationality in costs for calls from jails in Washington state. A 15 minute collect call from the Stevens County Jail, in Northeast Washington, costs \$18.24, the highest in the state, according to the nonprofit Human Rights Defense Center. A similar call from Snohomish County Jail is \$13.39; in King County, it's \$3.50.

The difference is not on quality of service. It is how much profit localities want to suck from the families of inmates.

Good for the FCC for taking it on.

Seattle Times Editorial Board members are editorial page editor Kate Riley, Frank A. Blethen, Ryan Blethen, Jonathan Martin, Thanh Tan, Blanca Torres, Robert J. Vickers, William K. Blethen (emeritus) and Robert C. Blethen (emeritus).

Source: http://seattletimes.com/html/editorials/2024829699_edtprisonphones21.xml.html

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Coming Soon! Disciplinary Self-Help Litigation Manual, by Daniel Manville. By the co-author of the *Prisoners' Self-Help Litigation Manual*, this book provides detailed information about prisoners' rights in disciplinary hearings and how to enforce those rights in court. Published by Prison Legal News Publishing, this title should be available by Nov. 15, 2014.

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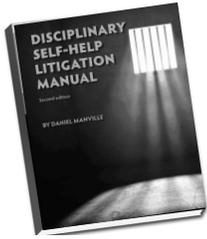
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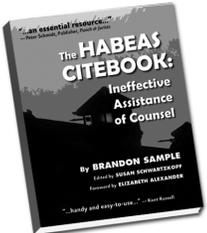
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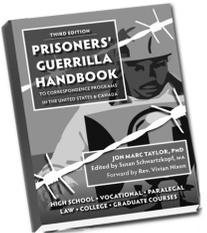
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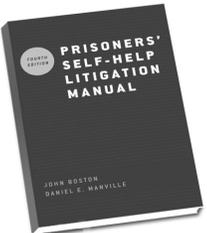
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