

HUMAN RIGHTS DEFENSE CENTER 2009 ANNUAL REPORT

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Notable Developments

THE PARENT ORGANIZATION of Prison Legal News (PLN) changed its name in 2009 to the Human Rights Defense Center (HRDC). PLN continues to operate as a project of the HRDC as a non-profit 501(c)(3) organization. We are in the process of designing an HRDC website, and will consolidate PLN's various activities – including litigation and book publishing – under the HRDC's organizational umbrella.

Also, HRDC hired Daniel E. Manville as general counsel in 2009, to coordinate our extensive litigation efforts. Dan, an attorney in private practice in Michigan, has long been active in the area of prisoners' rights and co-authored the *Prisoners' Self-Help Litigation Manual*, which is often called the "Bible" for jailhouse lawyers.

PLN, The Magazine

In 2009, continuing its distinction of being the longest-running independent magazine produced by and on behalf of prisoners, PLN completed its 19th consecutive year of publication. PLN published cover stories on the following topics in 2009:

- Prisoners' exposure to toxic dust at UNICOR prison recycling factories
- Corruption in the Orange County, California Sheriff's Department, and the conviction of Sheriff Michael Carona
- A successful campaign by PLN associate editor Alex Friedmann to stop the federal judicial nomination of CCA general counsel Gus Puryear
- The impact of the economic crisis on prison systems nationwide, including prison closures
- Persistent sexual abuse of prisoners by prison and jail staff
- Indictments against former Vice President Dick Cheney and former U.S. Attorney Alberto Gonzales, in connection with a private prison in Texas
- A treatise supporting revision of the Prison Litigation Reform Act, by Margo Schlanger and Giovanna Shay
- Misconduct by federal and state judges, and the lack of effective judicial discipline
- Al Gerhardstein's guide to successful jury trials on behalf of prisoner-plaintiffs
- Poor conditions and prisoner deaths at the Harris County Jail in Houston, Texas
- Litigation involving Pennsylvania county prisons
- A farcical private prison scam in Hardin, Montana that resulted in national headlines

2009 was the first full year that PLN published expanded issues of 56 pages, thus increasing the amount of our content for our readers. PLN remains the only national criminal justice publication with a general, non-academic readership that provides in-depth coverage of complex justice-related topics.

Due to less available funding, PLN distributed fewer free sample issues to prisoners and non-prisoners than in previous years. PLN supplied 2,500 sample copies during 2009. We continued to distribute free issues of PLN through various Books to Prisoners projects, at conferences and events, and through newspaper kiosks in the Washington, DC area with the assistance of the Prisons Foundation.

The number of PLN's magazine subscribers has remained steady with approximately 7,000 paid subscribers as of the end of 2009. PLN has subscribers in all 50 states and internationally. Approximately 70% percent of our magazine subscribers are incarcerated. Our print readership is around 80,000 based on reader surveys that indicate 8-10 people read each copy of *PLN*.

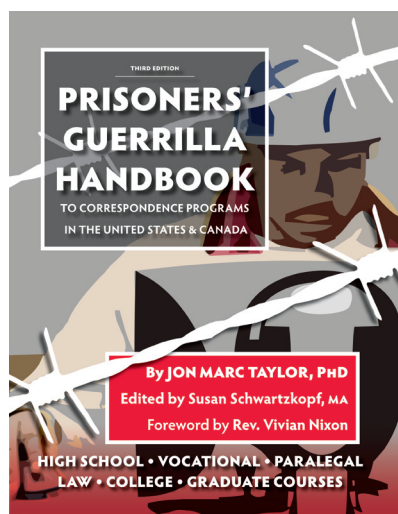
PLN received around 1,000 pieces of mail per week throughout 2009. The majority of this correspondence was from prisoners, with many requesting legal assistance as well as sending us news clippings, court decisions and other items of interest. Due to this large volume of mail, PLN is unable to respond to everyone who contacts us.

Book Distribution

BOOK SALES

HRDC's book sales increased during 2009, to approximately \$83,000 in sales. HRDC offers a variety of hard-to-find works on criminal justice issues, plus self-help legal resources useful to prisoners who are litigating their own cases. HRDC continued to experience censorship by prison officials in a number of states related to book orders and sales [see the Litigation section below].

One new addition to the books that HRDC distributes is a self-help re-entry workbook for prisoners titled *Starting Out! The Complete Re-Entry Handbook*. This useful 446-page book allows prisoners to prepare for their release if they do not have access to formal pre-release programs, or can be used to supplement such programs.



BOOK PUBLISHING

HRDC published its first in-house book in 2009, the first in a series of self-help books for prisoners that we hope to continue producing. The book, titled *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada* (3rd ed.), was authored by Missouri prisoner Jon Marc Taylor and edited by HRDC's Advertising and Outreach Coordinator, Susan Schwartzkopf. HRDC had distributed earlier editions of the *Guerrilla Handbook*; after the publisher retired, they gave the rights to HRDC. The 221-page *Guerrilla Handbook* was released in March 2009.

HRDC is currently working on our second self-help book for prisoners, entitled *The Habeas Citebook: Ineffective Assistance*

of Counsel, by Brandon Sample, one of PLN's contributing writers. The *Citebook* will cover issues related to ineffective assistance of counsel for prisoners pursuing habeas petitions, with supporting case law and citations. We hope to have the *Citebook* in print by mid-2010.

PLN Website

PLN's website content continued to expand in 2009. Our website is still a 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 tool for media and community outreach. Our site is the largest online resource for prison and jail issues; in Google searches for the word "prison," it usually scores in the top twelve. For the combined search terms "prison" and "legal," it is the first result on Google.

PLN's website has over 23,000 news articles and 9,000 court decisions in its searchable database, plus every issue of PLN since 1990. The publications section contains about 3,600 reports, audits and other documents related to criminal justice issues, and the brief bank contains over 4,800 legal pleadings – including complaints, motions, appeal briefs, verdicts, judgments and settlements in prison and jail cases.

HRDC Staff

HRDC's full time staff members during 2009 included Paul Wright, Editor, and Susan Schwartzkopf, Advertising and Outreach Coordinator, in our Vermont office; Alex Friedmann, Associate Editor, working from Nashville, Tennessee; Dan Manville, general counsel, located in Michigan; and Don Miniken, Executive Director, Danielle Fuskerud, Circulation Manager, Christine McAninch, Office Assistant, and Sam Rutherford, Research Assistant, based in our Seattle, Washington office.

Our full-time staff members were assisted by volunteers and contract employees. Further, PLN continued to rely on the contributions of our many incarcerated writers, who provide the bulk of the articles that make up each issue of the magazine.

HRDC Board of Directors

HRDC's board members during 2009 included:

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

Rick Best – Rick Best is an attorney with the National American Civil Liberties Union. He is a former prisoner who served three years for draft resistance, and a former director of the National Lawyers Guild.

Bell Chevigny – Bell Chevigny is a professor emeritus at Purchase College, SUNY. She has directed the PEN Prison Writing Program and has long supported writing by prisoners; she edited the book *Doing Time: 25 Years of Prison Writing* (Arcade Publishing, 2000).

Judy Greene – Judy Greene is the founder of Justice Strategies, a non-profit policy research firm that publishes reports on evidence-based outcomes for the criminal justice system, emphasizing decarceration. She is a national expert on the issue of prison privatization.

Don Miniken – Mr. Miniken is HRDC's executive director in charge of our Seattle office and business operations. Mr. Miniken was imprisoned for 11 years in the Washington state prison system.

Sheila Rule – Ms. Rule is the founder and president of Resilience Multimedia, the publisher of *Think Outside the Cell: An Entrepreneur's Guide for the Incarcerated and Formerly Incarcerated*, by Joseph Robinson – her husband – who has been in prison for 18 years. Before retiring, Ms. Rule was a journalist and editor at the *New York Times* for over three decades.

Ellen Spertus – Ellen Spertus is an associate professor of computer science at Mills College and a senior research scientist at Google. She has served on the boards of Stop Prisoner Rape (now Just Detention International) and Computer Professionals for Social Responsibility, and joined HRDC's board in 2009.

Peter Sussman – Peter Sussman is a former editor for the *San Francisco Chronicle*. He is the leading expert on media access to prisons and prisoners, and an expert on issues related to freedom of the press, journalism ethics and diversity.

Silja J.A. Talvi – Ms. Talvi, a journalist and prisoner rights advocate whose work has been extensively published, is the author of *Women Behind Bars* (Seal Press, 2007). She resigned her HRDC board position in late 2009.

Bill Trine – Bill Trine is a past president and founder of Trial Lawyers for Public Justice and past president of the Colorado Trial Lawyers Association. He has been the senior partner in his own law firm and organized a national prison project through TLPJ in 2005. Mr. Trine helped start the Gerry Spence Trial Lawyers College in 1994 and has been a faculty member and board member since that time.

Jo Anne Wigginton – Ms. Wigginton is the family member of a former prisoner and advocates on behalf of the rights of prisoners' family members, especially children.

Paul Wright – Mr. Wright is the editor and founder of PLN. He is responsible for PLN’s editorial content, public advocacy and outreach efforts, fundraising, and coordinating HRDC’s litigation activities. Mr. Wright was incarcerated for 17 years in the Washington state prison system; he was released in 2003.

Rollin Wright – Mr. Wright is PLN’s publisher and the father of board member Paul Wright.

Additionally, HRDC relied on the valuable contributions of Fred Epstein, a consultant who provided advice and recommendations to HRDC’s board members.

HRDC Foundation Support

HRDC relied on the generous financial support of several foundations during the past year, including the Open Society Institute, the Sonya Staff Foundation, the Public Welfare Foundation and the Art Knowledge Foundation, plus funding from the American Federation of State, County and Municipal Employees (AFSCME) and a project grant from the Funding Exchange (see “Prison Phone Research Project,” below).

Advocacy Work

During 2009, HRDC continued its long-standing practice of advocating for prisoners’ rights and criminal justice reform through attendance and speaking engagements at conferences and other events, and working in collaboration with other organizations. HRDC’s advocacy work included the following highlights:

CONCLUSION OF PURYEAR CAMPAIGN

As detailed in PLN’s 2008 Annual Report, PLN associate editor Alex Friedmann conducted an opposition campaign against the federal judicial nomination of Gus Puryear, general counsel for Corrections Corporation of America (CCA), the nation’s largest for-profit private prison firm. The opposition campaign extended throughout 2008 and concluded in early 2009, with Mr. Puryear’s nomination dying in the Senate Judiciary Committee due to Alex’s efforts and the efforts of organizational partners that participated in the campaign.

Organizations that contributed to or supported the opposition campaign included the Alliance for Justice, AFSCME, the National Lawyers Guild, Grassroots Leadership, Architects/Designers/Planners for Social Responsibility (ADPSR), and the California Correctional Peace Officers Association (which opposes prison privatization). Also, the National Council of Women’s Organizations, National Organization for Women, and Women’s Equal Rights Legal Defense and Education Fund provided letters in opposition to Mr. Puryear’s judicial nomination.

Mr. Puryear's nomination, which had stalled in the Senate Judiciary Committee, was returned to the White House in early January 2009 after the Senate adjourned. The opposition campaign declared victory in a January 22, 2009 press release. Alex conducted the campaign on his own time, at his own expense; no HRDC funds were used for this project. For more information, see: www.againstpuryear.org.

OTHER ADVOCACY EFFORTS

- PLN associate editor Alex Friedmann continued to participate in conference calls with Detention Watch Network (DWN) in 2009. DWN is a coalition of individuals and organizations concerned about immigration detention-related issues. PLN signed on to a February 23, 2009 DWN letter to the Department of Homeland Security in reference to immigration detention and enforcement policies.
- On April 7, 2009, PLN editor Paul Wright provided an introduction for Robert King, a former member of the Angola 3, who spoke at the Latchis 4 arts center in Brattleboro, Vermont.
- PLN contributed information to the Media Justice Fund of the Funding Exchange for their report on prison telephone services. The report, titled *Criminal Charges: Excessive Prison Phone Rates Take a Toll on Innocent Families*, was released on April 29, 2009 and mentioned PLN's involvement in this issue.
- Alex Friedmann attended CCA's annual shareholder meeting on May 14, 2009 and asked questions of CCA's board concerning the company's policies related to federal immigration detention contracts, and regarding CCA's efforts to reduce sexual abuse of prisoners. Alex owns one share of CCA stock.
- HRDC staff assisted the attorneys of a Colorado prisoner who sued after she was raped by a prison guard, providing verdict and settlement information from other prison sexual abuse cases to aid in valuation of damages. The prisoner's counsel entered PLN's May 2009 cover story on sexual abuse into the court record as an exhibit to their supplemental post-trial brief. The court awarded the prisoner \$1.3 million in compensatory and punitive damages on June 10, 2009.
- On June 12, 2009, Alex Friedmann spoke to a group of prisoners at the Charles Bass Correctional Center in Nashville, Tennessee about his experiences as a former prisoner and the challenges he faced following his release from prison. Alex was previously incarcerated at that facility.

- From August 9 to 11, 2009, Alex Friedmann attended the American Correctional Association's (ACA) convention in Nashville, Tennessee, where he manned an exhibitor's booth with Frank Smith, field organizer for the Private Corrections Institute (PCI). They spoke to conference attendees and distributed literature in opposition to prison privatization. The sponsors of the ACA convention included CCA, Geo Group and other private prison companies.
- HRDC signed on to a September 8, 2009 letter from the Lawyer's Committee for Civil Rights Under Law, requesting a thematic hearing by the Inter-American Commission on Human Rights of the Organization of American States, related to the discriminatory effects of felon disenfranchisement laws.
- Paul Wright was a guest speaker at Yale University Law School on September 21, 2009, where he addressed the Liman Public Interest Workshop on the role of jailhouse lawyers.
- HRDC signed on to a December 1, 2009 letter addressed to four U.S. Senators in support of S.678, the Juvenile Justice & Delinquency Prevention Reauthorization Act, which would strengthen and update federal juvenile justice policies, including improved conditions of confinement in juvenile facilities. The letter campaign was coordinated by Act 4 Juvenile Justice (www.act4jj.org), a project of the National Juvenile Justice and Delinquency Prevention Coalition.
- Alex Friedmann continued to participate in Stop Abuse and Violence Everywhere (SAVE) Coalition conference calls during 2009. HRDC is a member of the SAVE Coalition, which is an ACLU-directed effort to reform the Prison Litigation Reform Act (www.savecoalition.org). U.S. Rep. Bobby Scott introduced SAVE legislation, the Prison Abuse Remedies Act (HR 4335), on December 16, 2009.

JOINT PROJECTS

HRDC continued to work with other organizations to effect change in the areas of criminal justice reform and prisoners' rights. During 2009 HRDC partnered with the Private Corrections Institute to conduct research and support H.R. 2450, a bill that would extend the Freedom of Information Act to private prisons that house federal prisoners (Alex Friedmann is PCI's president). HRDC also worked with the SAVE Coalition, to reform the Prison Litigation Reform Act; the National Lawyers Guild (Paul Wright is a former co-vice president of the NLG's Jailhouse Lawyers project); the American Civil Liberties Union; the Prisons Foundation; National Police Accountability Project, Detention Watch Network and others.

Additionally, HRDC fielded numerous phone calls from attorneys, legislative staff, researchers and prisoners' family members requesting information and referrals, and worked cooperatively with other news organizations, including the *Associated Press*.

Media Coverage

HRDC continued to generate extensive media coverage in 2009, ranging from reports about HRDC's litigation and articles with quotes from HRDC staff to profiles of HRDC and our journalistic endeavors. Media coverage included daily newspapers, magazines and radio shows, and even a mention in Michael Moore's latest movie.

- PLN was discussed in *The Vancouver Voice*, an alternative paper in Washington state, in a January 27, 2009 article.
- PLN received an endorsement by an attorney who was profiled in the January 28, 2009 issue of the *New York Law Journal*. Brooklyn attorney Anthony Ofodile remarked that one of the best ways for a civil rights attorney to become known was "to win a case that gets picked up by Prison Legal News." PLN had reported one of his cases in 2006.
- Both PLN editor Paul Wright and associate editor Alex Friedmann were quoted in a February 12, 2009 article in *The Nation* titled "Your Valentine, Made in Prison," concerning the use of prisoner labor in prison-based industry programs.
- Paul Wright was quoted in the *Huffington Post* on March 26, 2009 in an article that examined New York's Rockefeller drug laws, which led to the incarceration of large numbers of low-level drug offenders. "If you ask me of a single positive aspect about going to prison," Paul said, "I'm at a loss to name one. Prisons in this country, they're not just brutalizing and dehumanizing, but the negative effects far outstrip the positives: job loss, loss of housing." He concluded, "We should try to keep people out of prisons in the first place."
- PLN was cited in an article in the April 2009 issue of the *California Law Review*, on medical experimentation on prisoners. Both Paul Wright and Alex Friedmann had responded to the author's request for information on that topic.
- Paul Wright was quoted by the *Santa Fe Reporter* in an April 1, 2009 article on life without parole sentences. "It's part of the continual evolution of the search for the 'humane death penalty,'" Paul stated. "Hanging was seen as more humane than impaling people on a stake. Then there was the gas chamber, the electric chair and now they're doing lethal injection. If you look at that trajectory, life without the possibility of parole is part of the same continuum."
- In an April 9, 2009 article, *Seattle Weekly* reported that PLN's public records request for the identities of Washington Dept. of Corrections employees involved in executions had apparently led to the resignation of that state prison system's four-member execution team.

- Paul Wright was quoted in an April 21, 2009 *Tribune-Review* article concerning Pennsylvania's right-to-know law. HRDC has since sued the Pennsylvania DOC due to its failure to grant a fee waiver for HRDC's right-to-know request.
- On April 22, 2009, Paul Wright was interviewed on the WBAI radio station in New York City on the topic of jailhouse lawyers.
- Alex Friedmann was quoted in an article about private prison company GEO Group's political influence in Texas, in an article published by Texas Watchdog on April 27, 2009.
- PLN and Paul Wright were profiled in a national-wire *Associated Press* article on May 24, 2009. In describing PLN's content, Paul was quoted as saying, "We're not telling prisoners 'Hey, here's how you make bombs.' We're not telling people 'Hey, you need to kill the guards in the morning.' Rather, what we're doing is we're telling them on a fundamental level 'You're human, you have civil rights and you can use the civil justice system to enforce them.'" The *AP* story was picked up by 130 media outlets nationwide.
- Paul Wright was quoted in a June 2, 2009 article in the *Socialist Worker* on the dearth of post-secondary education programs in prisons, despite the fact that "Every study that's been done on the subject of prison education going back at least 80 years, and probably before, shows that the more education people in prison get, the lower the recidivism rates."
- Paul Wright was quoted in a *Fox News* article on June 7, 2009, concerning the growing practice of charging jail prisoners for the cost of their incarceration. He was also interviewed and appeared in the newscast.
- A June 13, 2009 *Associated Press* article about the prison newspaper at San Quentin quoted Paul Wright in regard to the declining number of prison papers.
- Paul Wright was quoted in a July 15, 2009 article in *Mother Jones* magazine on the nomination of Sonia Sotomayor to the U.S. Supreme Court, in relation to her dismissal of an appeal filed by a prisoner who was later exonerated.
- An article by Paul Wright about the medication needs of HIV-positive prisoners was published in the July/August issue of *POZ Magazine*.
- Alex Friedmann had editorials published in the *Tennessean* on August 19, 2009 and December 2, 2009, related to proposals to reduce Tennessee's prison population. He was also quoted in an August 7, 2009 *Tennessean* article on the same topic.

- Alex Friedmann was quoted several times in a *New York Times* article on August 26, 2009, concerning reports of sexual abuse of prisoners at a CCA-operated prison in Kentucky.
- The *Augusta Chronicle* cited PLN's website as a research source in an August 30, 2009 article about medical care for prisoners.
- Paul Wright and Alex Friedmann were contacted by the staff of movie director Michael Moore, and provided information related to prison privatization for Mr. Moore's recent film, *Capitalism: A Love Story*. The movie, which opened on October 2, 2009, included a segment on two corrupt Pennsylvania judges who sent juvenile offenders to private detention centers in exchange for bribes. *PLN*, Paul and Alex were recognized in the movie's closing credits.
- Alex Friedmann was quoted in a September 1, 2009 article in the *Tennessean* about CCA's upbeat business outlook, despite lawsuits and allegations of sexual abuse by CCA employees. Alex stated that with prison privatization, "you often get what you pay for."
- Alex Friedmann was interviewed by the Stark Raven show on Vancouver, Canada's Co-op radio station on Sept. 7, 2009 about a reading of his play, *One Fine Day in Inferior Court*, at the Kennedy Center in Washington, D.C.
- Paul Wright was mentioned in a *Tacoma News Tribune* article on Sept. 17, 2009, related to legislation in Washington state to restrict prisoners' access to public records. Paul was quoted in articles on the same topic by the *Post-Intelligencer* on February 11, 2009 and the *Associated Press* on February 19, 2009.
- Alex Friedmann, identified as "associate editor of the watchdog publication Prison Legal News," was quoted in a *Newsweek* article on Oct. 14, 2009 that detailed a private prison scam in Hardin, Montana. Alex was also quoted in a Sept. 30, 2009 *Associated Press* article on the same topic. *PLN* had helped the *AP* break the story about the scam by sharing background research and sources.
- *PLN*'s third anthology, *Prison Profiteers*, was referenced in an October 18, 2009 *Billings Gazette* article about the private prison scandal in Hardin, Montana.
- The *Hartford Courant* ran articles about *PLN*'s FOIA appeal on Nov. 23, 2009 and Dec. 1, 2009, noting that the City of Hartford had paid a \$300 court filing fee to challenge a ruling by the Connecticut FOIA Commission that held *PLN* was not required to pay \$27.50 in copy costs for a public records request. *PLN*'s FOIA case was also mentioned in the *Hartford Business Journal* on Oct. 19, 2009.

- On December 10, 2009, Paul Wright was quoted in an article in *The Portland Phoenix* (a Maine publication) about cover-ups of prisoner abuse by prison officials. The article dealt with the death of a prisoner in Maine.
- Paul Wright was interviewed on Houston Radio KPFT (Cultural Baggage) on December 13, 2009, regarding drug policy and prison conditions.
- Paul Wright was quoted in a Dec. 17, 2009 AlterNet article about the Obama administration's decision to transfer terrorist detainees from the military prison in Guantanamo Bay, Cuba to a supermax facility in Illinois.
- Alex Friedmann and PLN were mentioned in a December 18, 2009 article about CCA published in the *Nashville Business Journal*.

In addition to the media coverage described above, HRDC fielded phone calls and e-mails from dozens of reporters and journalists seeking information on prison and criminal justice-related issues. PLN's website is a leading source of information for researchers and members of the media.

Litigation

HRDC continues to be heavily involved in litigation, primarily due to censorship issues and denials of our public records requests. HRDC's legal actions generated additional media coverage in publications ranging from the *Austin American Statesman* and *Richmond Times-Dispatch* to the *Arizona Daily Star* and *San Francisco Weekly*. HRDC General Counsel Dan Manville co-counsels on all cases filed after June 30, 2009. HRDC's litigation docket in 2009 included the following cases:

NEW CASES FILED IN 2009

Los Angeles Public Records Case: On March 3, 2009, PLN filed a lawsuit against the County of Los Angeles after submitting records requests for documents related to litigation involving the Los Angeles jail. The county failed to produce the requested records and did not respond to a follow-up letter. PLN is represented by the law firm of Rosen, Bien and Galvan LLP, and Najeeb N. Khoury and Padraic Glaspy of Howarth & Smith. The case is *PLN v. Los Angeles County*.

San Francisco Public Records Case: On August 20, 2009, PLN sued the City and County of San Francisco after submitting records requests for documents related to litigation involving the San Francisco jail. Although a partial spreadsheet of cases was produced, the requested records were not. The suit was filed after the City Attorney's office failed to respond to PLN's follow-up letters.

PLN is represented by the law firm of Rosen, Bien and Galvan LLP. The case is *PLN v. City and County of San Francisco*.

Virginia DOC Censorship Suit: On October 8, 2009, PLN filed suit in federal court against the Virginia Dept. of Corrections. The complaint alleges that Virginia prison officials censored PLN's magazine and correspondence, failed to provide PLN with timely and adequate notice of such censorship, and barred prisoners from receiving gift books or subscriptions from third parties. PLN is represented by attorneys Jeffrey E. Fogel and Steven D. Rosenfield. The case is *PLN v. Johnson*.

Michigan DOC Public Records Case: In August 2009, PLN sued the Michigan Dept. of Corrections in state court under Michigan's Freedom of Information Act. PLN had requested certain records from the Department, and also requested a waiver of all fees associated with the request. The Department never addressed the fee waiver in its response and failed to respond to follow-up letters raising the fee waiver issue. PLN is represented by attorney Dan Manville, its general counsel. The case is *PLN v. Michigan DOC*.

TDCJ Book Censorship Suit: On November 4, 2009, PLN filed suit in federal court against the Texas Dept. of Criminal Justice (TDCJ), after the TDCJ censored two books ordered by prisoners from PLN. The TDCJ censored *Women Behind Bars* by former PLN board member Silja Talvi, and *Perpetual Prisoner Machine: How America Profits from Crime*, by Joel Dyer. PLN contends that the censorship was improper and that it did not receive notice of such censorship by the TDCJ. On Dec. 17, 2009, the court denied the defendant's motion to dismiss the case, deferring judgment on the issue of qualified immunity. PLN is represented by attorney Scott Medlock with the Texas Civil Rights Project. The case is *PLN v. Livingston*.

Pennsylvania DOC Records Case: On May 13, 2009, PLN filed a petition in the Commonwealth Court of Pennsylvania under the state's right-to-know law, after the Office of Open Records denied PLN's request for a fee waiver in a public records request submitted to the Pennsylvania Department of Correction. The Department had refused to waive \$8,750 in copy costs, refused to provide the records in electronic format, and later denied PLN's records request with respect to certain documents. PLN is represented by Mary Catherine Roper, staff attorney for the Pennsylvania ACLU. The case is *PLN v. Pennsylvania DOC*.

Connecticut FOIA Appeal: When PLN requested documents related to a settlement involving a prisoners' death at a jail in Hartford, Connecticut, the city denied PLN's request for a fee waiver and demanded \$27.50 in copy costs. PLN appealed to the state's FOIA Commission, which ruled on Sept. 23, 2009 that PLN was entitled to a fee waiver. The city was ordered to provide the records at no cost. On November 12, 2009, the city appealed the Commission's ruling to Superior Court, paying a \$300 court filing fee to contest the waiver of \$27.50 in copy costs. PLN is represented by

attorney Brett Dignam at Yale Law School and law students Megan Quattlebaum and Robyn Gallagher. The FOIA Commission appeal is *In the Matter of a Complaint by Paul Wright v. Office of the Corporation Counsel*. The Superior Court case is *Office of City Corporation v. FOIA Commission*.

CCA Arizona Censorship Suit: On September 2, 2009, PLN filed suit against CCA in federal court, claiming that the company's Saguaro Correctional Facility in Arizona had censored books ordered by prisoners from PLN. The Saguaro facility reportedly had a policy that required prisoners to order books from Barnes & Nobles or Amazon, and prohibited book orders from third parties. PLN did not receive notice from CCA that its books were being censored. PLN is represented by Dan Pochoda, Legal Director of the ACLU of Arizona, and the law firm of Rosen, Bien and Galvan LLP. The case is *PLN v. CCA*.

Louisiana Jail Censorship Suit: On December 3, 2009, PLN sued the St. Bernard Parish Prison in Louisiana, which had a policy and practice of prohibiting magazines, newspapers and books from outside publishers or distributors, including PLN. No notice was provided to PLN when its magazine and book orders were censored by the jail. PLN is represented by New Orleans attorneys Mary Howell and Elizabeth Cumming. The case is *PLN and HRDC v. Stephens*.

CASES RESOLVED IN 2009

Mississippi DOC / Global-Tel Records Case: On March 10, 2009, PLN filed suit against the Mississippi Dept. of Corrections and Global Tel*Link, a prison phone service company, to obtain a copy of Global Tel's contract with the Mississippi DOC. The contract had been sealed by a state court in a previous case involving Global Tel. PLN settled the suit in June 2009, with Global Tel agreeing to produce a copy of the contract and related documents. PLN was represented by attorneys Robert B. McDuff and Sibyl C. Byrd; the case was *PLN v. Mississippi DOC*.

Massachusetts Book Censorship Suit: PLN filed suit in U.S. District Court against the Massachusetts Dept. of Corrections on April 23, 2008. For years, prison officials had refused to deliver books ordered from PLN because PLN was not an "approved vendor," and ignored PLN's requests to be added to the approved vendor list. PLN was added as an approved vendor one week after the lawsuit was filed. The Massachusetts DOC settled the case on May 12, 2009, agreeing to allow delivery of books ordered from PLN and paying \$5,000 in damages. PLN was represented by attorney Howard Friedman. The case was *PLN v. Clarke*.

Intervention in CCA FLSA Suit: On July 27, 2009, PLN filed a motion to intervene in a class action Fair Labor Standards Act lawsuit in U.S. District Court in Kansas. The suit, which alleged that CCA had violated labor laws by failing to fully compensate its employees, had settled in February

2009; however, the settlement was confidential. PLN moved to unseal the settlement. The district court granted PLN's motion despite opposition from CCA, and unsealed the settlement on August 27, 2009. PLN then reported the amount and terms of the settlement agreement. PLN was represented by Stephen Bonney, Chief Counsel and Legal Director of the ACLU of Kansas and Western Missouri. The FLSA class action suit was *Barnwell v. CCA*.

PRIOR CASES STILL PENDING IN 2009

GEO Group Public Records Case: PLN filed suit in state court in Florida in 2005, seeking details about the amount of money that GEO Group (formerly Wackenhut) had paid out in litigation related to its operation of private prisons in Florida. The court granted three motions to compel against GEO. GEO eventually produced the requested records in late 2009, but the case remains pending final resolution. PLN is represented by attorney Frank Kreidler. The case is *PLN v. GEO Group, Inc.*

BOP FOIA Suit: In 2005, PLN filed a Freedom of Information Act (FOIA) suit in the District of Columbia against the federal Bureau of Prisons, seeking copies of all cases and claims over a multi-year period where the BOP had paid any funds to resolve claims or lawsuits. The BOP responded to PLN's 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 in 2006 and ordered the BOP to provide the requested records at no charge. The BOP produced some records, but most were redacted or incomplete. On March 26, 2009, the court granted summary judgment to PLN and denied the BOP's cross-motion for summary judgment. The case remains pending. PLN is represented by D.C. attorney Ed Elder and the Partnership for Civil Justice. The case is *PLN v. Lappin*.

CDCR Public Records Case: In December 2007, PLN filed a public records lawsuit against the California Dept. of Corrections and Rehabilitation, seeking disclosure of records related to all litigation payouts made by the state's adult and juvenile prison systems over a multi-year period. The Department provided some of the requested records; on December 23, 2009, the court ordered the Department to produce all responsive records to PLN. The case is ongoing. PLN is represented by the law firm of Rosen, Bien and Galvan LLP. The case is *PLN v. Tilton*.

District of Columbia Public Records Case: In June 2008, PLN filed a public records lawsuit against the District of Columbia, seeking information on jail-related litigation documents. The suit challenges the District's refusal to provide records in electronic format as required by District law, and its refusal to waive copying fees when in the public interest. The court ordered the District to produce the requested records in July 2009, and the defendants were still in the process of doing so

by the end of the year. The case remains pending. PLN is represented by the Partnership for Civil Justice. The case is *PLN v. District of Columbia*.

Fulton County Jail Publication Ban Suit: In October 2007, PLN sued the Fulton County Jail in Atlanta, Georgia over the jail's policy of banning all books and non-religious publications. In February 2008 the court issued a preliminary injunction enjoining the policy, and ordered PLN subscriptions and book orders to be delivered. On July 13, 2009, the court denied the county's motion to dismiss. The county agreed to settle the case in October 2009, though the terms of the settlement and attorney fees were still pending at the end of the year. PLN is represented by attorneys Brian Spears and Gerry Weber. The case is *PLN v. Freeman*.

Exec. Office of U.S. Attorneys FOIA Suit: On May 20, 2008, PLN filed a FOIA lawsuit against the Executive Office for U.S. Attorneys, seeking disclosure of a Bureau of Prisons videotape of the murder of a prisoner at the U.S. Penitentiary in Florence, Colorado. The video was shown in open court during the murder trials of the victim's assailants; however, the government refused to release the video to PLN. On Sept. 16, 2009, the court granted in part and denied in part summary judgment motions filed by both parties, and ordered the defendants to produce part of the video. PLN has appealed the court's ruling to the Tenth Circuit, seeking disclosure of the full video. PLN is represented by attorney Gail Johnson. The case is *PLN v. EOUSA*.

CCA Tennessee Public Records Case: In May 2008, PLN associate editor Alex Friedmann sued Corrections Corporation of America (CCA) under Tennessee's public records law, seeking disclosure of certain records related to CCA's operation of prisons and jails in Tennessee. On July 29, 2008, the trial court issued a landmark ruling which held for the first time that a private prison company was subject to Tennessee's public records statute. CCA appealed. On August 5, 2009, the Court of Appeals found that CCA was the functional equivalent of a state agency and thus subject to the public records law, and, in a revised ruling on September 16, 2009 following a motion to rehear, held that the records requested by PLN were subject to disclosure by CCA for all but one facility. CCA appealed to the Tenn. Supreme Court and PLN has cross-appealed on the issue of attorney fees. PLN is represented by attorney Andy Clarke with Borod & Kramer; the case is *Friedmann v. CCA*.

AMICUS BRIEFS

On November 27, 2009, PLN joined an amicus brief filed by Reporters Committee for Freedom of the Press in *Hammer v. Ashcroft*, seeking certiorari review by the U.S. Supreme Court. *Hammer* is challenging rules that prohibit in-person media interviews with federal death row prisoners and that bar such prisoners from speaking to the press about the treatment of other death row prisoners.

In March 2009, the ACLU of Tennessee and five national journalist groups filed an amicus brief with the Tennessee Court of Appeals in support of PLN's public records suit against CCA (see above). The other amicus partners included the Reporters Committee for Freedom of the Press, the Society of Professional Journalists, the American Society for Newspaper Editors, the Associated Press, and the Association of Capitol Reporters and Editors.

DEMAND LETTERS

On September 15, 2009, the Missouri Department of Corrections (MDOC) agreed to revise its policy prohibiting prisoners from receiving books purchased by third parties or sent to them free of charge. The policy change resulted after a demand letter was sent to the MDOC by HRDC general counsel Dan Manville. Consequently, Missouri prisoners can now receive books purchased by their families and friends, both from PLN and other book distributors, and can receive free reading material.

PLN sent a demand letter to the Tennessee Dept. of Correction on March 8, 2009, after a Tennessee prison changed its mail policy to require approved book vendors and to ban book purchases by third parties. The policy was rescinded ten days after PLN submitted its demand letter to the Commissioner's office.

At the end of 2009, PLN had demand letters pending in regard to censorship issues involving the Departments of Correction in Florida, New York and North Carolina. The North Carolina DOC agreed to end its ban on PLN due to its advertisements. The Florida DOC has censored PLN for the same purported reason and has refused to change its policies.

Other Activities

PRISON PHONE RESEARCH PROJECT

In late 2008, PLN received a grant from the Funding Exchange in the area of Media and Communications, to conduct a comprehensive study of prison telephone service providers in the United States. The project extended into 2009. PLN partnered with Prof. Steven J. Jackson at the University of Michigan, who is a leading authority on prison phone issues. With the assistance of PLN contributing writer Michael Rigby, we requested data from every state concerning prison phone contracts, policies and "commission" payments by phone service companies.

Prisoners – or rather prisoners' families – pay some of the highest phone rates in the nation due to exorbitant charges by prison phone service providers. By the end of 2009 we had obtained most of the data requested from state agencies through public records requests; in one state (Mississippi), PLN had to file suit to obtain a copy of the prison phone service contract and commission information [see the Litigation section for details]. However, due to that litigation and other delays, a final report for the prison phone project had not been completed by the end of the year.

LEGISLATIVE TESTIMONY

On April 15, 2009, PLN associate editor Alex Friedmann testified before the House State and Local Government Committee of the Tennessee legislature in reference to HB 52, a bill that proposed mandatory HIV testing for state prisoners prior to their release so they would know their HIV status.

NCCD PASS AWARD

On March 20, 2009, the National Council on Crime and Delinquency announced that PLN's anthology, *Prison Profiteers: Who Makes Money from Mass Incarceration*, was among the winners of the NCCD's 2008 Prevention for a Safer Society (PASS) Awards. Former HRDC board member Silja Talvi also was a PASS Award winner, for her article on PLN associate editor Alex Friedmann's opposition campaign against the federal judicial nomination of CCA general counsel Gus Puryear.

Looking Forward: Goals for the Next Year

HRDC's goals for the next year include consolidating our Seattle and Vermont offices into one location in Vermont; improving, expanding and further developing PLN's website; developing a website for the Human Rights Defense Center, PLN's parent organization; increasing the number of PLN's paid subscribers; escalating our anti-private prison project; developing a better PLN member database and mailing list program; and securing additional grant funding so we can meet those goals.

In terms of book publishing, we plan to publish a book on habeas issues in 2010, and will work to broaden our selection of self-help books for prisoners.

We are pleased with HRDC's progress during 2009 in terms of our media outreach, advocacy efforts, litigation, and other projects. PLN's website continues to be a definitive source of news and legal research for prisoners' rights advocates, policy makers, academics, researchers, journalists, family members, attorneys and other people involved in criminal justice and corrections-related issues.

Increasing and diversifying HRDC's funding base remains essential to our long-term success. We will continue to seek additional grant sources, expand PLN's magazine subscribers and advertising income, and develop individual donors.

Due to the economic crisis in the U.S. during 2009, we have seen a number of states make dramatic departures from their typical "lock 'em up" criminal justice policies – including prison closures, early release programs and changes in parole policies. Now more than ever, HRDC needs to capitalize on this trend by informing the public and policymakers about deficiencies in our criminal justice system through our news reporting, advocacy, litigation and partnerships with other organizations.