



**HUMAN
RIGHTS
DEFENSE
CENTER**

2019 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) – our award-winning 72-page monthly publication that covers prison and jail-related news and court rulings – and *Criminal Legal News* (CLN), a 48-page monthly publication focused on policing and criminal law, which celebrated its second full year of publishing in December 2019.

During the past year, HRDC continued to lead the [Stop Prison Profiteering campaign](#) and [Campaign for Prison Phone Justice](#), two national projects that seek to stop the financial exploitation of prisoners and their families, as well as the [Prison Ecology Project](#).

HRDC had several notable litigation successes during 2019, including settlements in First Amendment censorship cases against jails in Cook County, Chicago; Santa Fe County, New Mexico; San Miguel County, New Mexico; Pontotoc County, Oklahoma; and Forrest County, Mississippi. HRDC’s partial victory against the Florida Department of Corrections was affirmed by the Eleventh Circuit. As part of our Freedom of Information Act project which we initiated in 2018, we also successfully resolved public records cases against GEO Group, the federal Bureau of Prisons, the District of Columbia, and Otero County, New Mexico.

THE MAGAZINES

PRISON LEGAL NEWS

HRDC’s flagship monthly print publication, *Prison Legal News*, reports on prison, jail and criminal justice-related news and court rulings. *PLN* celebrated its 29th anniversary on May 1, 2019, continuing its distinction of being the longest-running independent magazine produced by and for prisoners. *PLN*’s contributing writers are all current or former prisoners, including Kevin Bliss, Dale Chappell, Matt Clarke, Derek Gilna, Gary Hunter, Ed Lyon, David Reutter, Joe Watson, Mark Wilson and Christopher Zoukis. *PLN* published the following cover stories in 2019:



- January:** In an article originally published in *The Washington Spectator*, Barbara Koepfel’s “Sex Crimes and Criminal Justice: Formerly Incarcerated Sex Offenders Say Civil Commitment Programs Deny Proper Rehabilitation” outlines the systemic failure of involuntary civil commitment programs to provide rehabilitation for sex offenders.
- February:** In “Former Prisoners Become Attorneys: From Breaking the Law to Practicing Law,” Christopher Zoukis profiles numerous current and former prisoners who found success as licensed attorneys.
- March:** Originally published by the Southern Poverty Law Center, investigative reporter Will Tucker’s “The Kill Line: Should Prisons be in Business with One of the Most Dangerous Industries in America?” details the pitfalls of state prison systems’ close ties to the poultry industry and its use of prison slave labor.

- **April:** “Incorrigible: The First Step Act and the Carceral State” by University of Pennsylvania professor of political science Marie Gottschalk, takes a closer look at the First Step Act.
- **May:** Originally appearing in *The Virginian-Pilot*, Gary A. Harki’s “Horrific Deaths, Brutal Treatment: Mental Illness in America’s Jails” provides an overview of the mental health crisis facing our country’s jail detainees.
- **June:** Executive director and editor Paul Wright interviewed longtime PLN ally Randy Berg, departing founder and Executive Director of the Florida Justice Institute for June’s cover story about that organization’s history and activities. Sadly, Randy died a few months after the interview.
- **July:** In “The Second Step: Invest in Prison Education Programs, Reinstate Pell Grants,” Christopher Zoukis summarizes arguments for the reinstatement of Pell grants and the refunding of prison education programs nationally.
- **August:** In an article originally appearing in *The Nation*, “Force-Feeding is Cruel, Painful and Degrading – and American Prisons Won’t Stop,” Aviva Stahl takes the hunger strikes at Colorado’s Florence ADX supermax as a point of departure for an overview of the practice of force-feeding in American prisons.
- **September:** In “Opioid Epidemic Impacts Prisons and Jails,” PLN writer Steve Horn offers a detailed overview of how the United States’ national opioid crisis has manifested behind prison and jail walls, and what can be done about it.
- **October:** Originally appearing in *ProPublica* in two parts, “California Tried to Fix its Prisons. Now County Jails Are More Deadly”, by Jason Pohl and Ryan Gabrielson, describes and investigates the reasons behind the recent explosion of homicides in California’s county jails.
- **November:** “Beyond *Estelle*: Medical Rights for Incarcerated Patients,” written exclusively for PLN by Biomedical Ethics instructor Gregory J. Dober, provides a comprehensive breakdown of the decision-making rights of incarcerated medical patients.
- **December:** In an article originally appearing in *The Sarasota Herald-Tribune*, “Wasted Minds: Prisoners Languish in Florida Prisons with Little Access to Education,” Ryan McKinnon and Josh Salman detailed the systemic failure of the Florida Department of Corrections to provide education for its prisoners given its “punish and contain” program model.

PLN works hard to maintain first-rate advertisers that offer quality products and services of interest to prisoners and their families. We have a target of around 25% advertising content to 75% news, legal and editorial content.

Prison Legal News has thousands of subscribers in all 50 states and approximately 70% of our subscribers are incarcerated. *PLN*’s readership is much higher than the number of

subscribers; our most recent reader survey, conducted in August 2016, indicated that over 90 percent of subscribers share their issues of *PLN* – most often with more than 10 other people.

PLN continued to receive a substantial amount of mail throughout 2019, mostly from prisoners, with many requesting legal assistance or sending news clippings, court documents and other items of interest. Regretfully, due to this large amount of mail, *PLN* is unable to respond to the vast majority of people who contact us. But every piece of mail is read and reviewed by staff.

CRIMINAL LEGAL NEWS

HRDC launched a new monthly publication in December 2017, *Criminal Legal News*. *CLN* focuses on criminal law and the persistent expansion of the police state in America; it covers issues that include police and prosecutorial misconduct, habeas corpus relief, ineffective assistance of counsel, sentencing, the militarization of police, the surveillance state, junk science and wrongful convictions, false confessions, eyewitness misidentification, paid/incentivized informants, Fourth Amendment search and seizure violations, *Miranda* warnings and due process rights, as well as criminal case law and court rulings. *CLN* had its second full year of publication in 2019, and published the following cover stories:



- **January:** Rick Anderson reported on questionable forensic scientific methodologies in “The Fallibility of Forensic Science: Crime-Solving Tool Can Lead to Wrongful Convictions – and Belated Exonerations.”
- **February:** In an article originally appearing on *TheAppeal.org*, “Capital Punishment in the United States: Explained,” Jessica Brand and Callie Heller outlines the contemporary national situation of the death penalty.
- **March:** Dale Chappell’s “Government Snitches: Incentivized Witnesses Are the Leading Cause of Wrongful Convictions” describes the pitfalls of prosecutorial reliance on unreliable informants.
- **April:** Originally appearing in *ProPublica*, Ryan Gabrielson’s “The FBI Says its Photo Analysis Is Scientific Evidence. Scientists Disagree” outlines the unscientific forensic tactics of the FBI in its criminal investigations.
- **May:** David Reutter reported on the widespread and unjust use of plea bargains in “Plea Bargaining: Prosecutors Leave Trail of Injustice When Playing Hardball with Defendants.”
- **June:** In an article originally appearing in *ProPublica*, Jack Gillum’s “Prosecutors Dropping Child Porn Charges After Software Tools Are Questioned” describes the complex issues arising from law enforcement’s use of problematic software tools in child porn investigations.

- **July:** Noreen Marcus reported on activists' campaigns against the predatory tactic of civil asset forfeiture in "Policing for Profit: Justice Reformers Chip Away at Civil Asset Forfeiture."
- **August:** In "Exonerations: From Wrongful Conviction to Release and Beyond," Ed Lyon outlines exoneration demographics and procedures and provides testimonials from exonerees.
- **September:** Matt Clarke details the different ways that malfeasance by police yields false imprisonment in "The Role of Police Misconduct in Wrongful Convictions."
- **October:** In "Partial Justice: How a Judiciary Poisoned by Politics, Ideology, and Unaccountability Contributes to the Wrongful Conviction of Innocent Men and Women," Christopher Zoukis breaks down the systemically unethical criminal justice institutions and practices that lead to wrongful conviction.
- **November:** Steve Horn reports on the failure of academic research to clarify DNA analysis technologies used in criminal investigations in "Lack of Academic Research in U.S. on Secondary DNA Transfer Affects Criminal Defendants."
- **December:** Originally published in *The Intercept*, "How the Secretive 'Discipline' Process for Federal Prosecutors Buries Misconduct Cases," by Brooke Williams, Samata Joshi and Shawn Musgrave, outlines the lack of transparency that shields federal prosecutorial misconduct from appropriate oversight and redress.

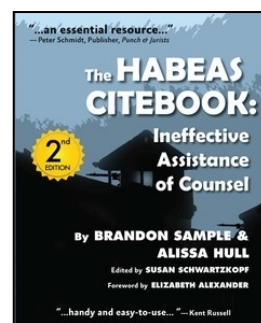
BOOK DISTRIBUTION

BOOK SALES

HRDC offers a [wide variety of books](#) of interest to prisoners, including hard-to-find titles on criminal justice topics as well as self-help legal resources designed to help prisoners who are litigating their own appeals and lawsuits. HRDC distributed over 4,000 books in 2019 (nearly \$90,000 in sales) including over 1,000 books sent to prisoners at no cost to the prisoner.

BOOK PUBLISHING

PLN Publishing seeks to produce 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 the publishing industry. Thus far, PLN Publishing has published six titles, including the *Prisoners' Guerrilla Handbook to Correspondence Programs in the U.S. & Canada*, 3rd Ed.; *The Habeas Citebook: Ineffective Assistance of Counsel*, 1st and 2nd Eds.; the *Prison Education Guide*; the *Disciplinary Self-Help Litigation Manual*; and the *Habeas Citebook: Prosecutorial Misconduct*. The latter, written by former HRDC staff attorney Alissa Hull, was published in 2019.



PLN Publishing began work on two new book projects in 2019 that were still pending at the end of the year, including a revised version of *With Liberty for Some: 500 Years of Imprisonment in America* by Scott Christianson.

HRDC WEBSITES

We continued to expand HRDC's online presence in 2019 by increasing our content, including articles, court pleadings and publications. *PLN's* website (www.prisonlegalnews.org) receives over 150,000 visitors each month and is a significant resource for media and community outreach and public education on criminal justice-related issues. *CLN* separately receives over 80,000 visitors each month.

At the end of 2019, *PLN's* site had over 23,500 articles and 16,000 cases in its searchable database. The publications section had more than 7,500 reports, audits and other documents, while our brief bank contained over 11,000 legal pleadings – including complaints, motions, briefs, verdicts, judgments and settlements. Some content was shared with *CLN's* website, www.criminallegalnews.org.

HRDC also maintains an organizational site, www.humanrightsdefensecenter.org, as well as separate websites for our various projects, including www.stopprisonprofiteering.org, www.prisonphonejustice.org, www.prisonecology.org, www.privateprisonnews.org, and www.wronglyconvicted.org.

HRDC STAFF

HRDC's executive team during 2019 included Paul Wright, executive director and editor of *PLN* and *CLN*; chief financial officer and advertising director Susan Schwartzkopf; and our general counsel and litigation director Daniel Marshall.

Additional staff included Richard Resch, managing editor of *CLN*; staff attorneys Daniel Marshall, Masimba Mutamba and Deb Golden; Frances Saucedo, office manager; Judith Cohen, advertising coordinator; Panagioti Tsolkas, special projects coordinator; Robert Pew, legal assistant; paralegal Kathy Moses; public records manager/development coordinator Michelle Dillon; editorial assistant Betty Nelander; social media specialist Julia Ragsdale; and office assistants Shauna Coolican, Latoria Bowers, and Alexis Montag.

We also want to recognize our valued and dedicated volunteers and interns, including Janet Callis, Melanie Campbell, Mackenzie Russell, Connor Whitney, Manola Secaira, Isabel Place, Madison Meuler and Tessa Aiken, as well as our work study students: Iris Wagner, Sara Molaie, Eugene Choi, Kyla Evans, Nikita Minkin, Alexandra Portillo, Auston Jimmicum, Ashleen O'Brien and Courtney Jackson.

HRDC BOARD OF DIRECTORS

Michael Avery – Professor Michael Avery has practiced as a civil rights and criminal defense attorney, representing clients in jury trials and arguing cases in federal and state appellate courts, including the U.S. Supreme Court. He joined the Suffolk Law faculty in 1998, where he was a tenured professor teaching Constitutional Law, Evidence and related courses. He retired from Suffolk in 2014 and is now a professor emeritus. He graduated from Yale College in 1966 and Yale Law School in 1970. He received an M.F.A. from Bennington College in January 2017.

Prof. Avery was President of the National Lawyers Guild from 2003 to 2006. He was the editor and a contributing author to *We Dissent*, a critical review of civil liberties and civil rights cases from the Rehnquist Court, and co-author of *The Federalist Society: How Conservatives Took the Law Back from Liberals*. He is co-author of *Police Misconduct: Law and Litigation*, a leading treatise on civil rights law, co-author of the *Handbook of Massachusetts Evidence*, the leading treatise on that subject, and the author of the *Glannon Guide to Evidence*, as well as several law review articles.

Dan Axtell (Vice President) – Mr. Axtell is a computer professional and human rights activist.

Rick Best (Treasurer) – Rick Best is a not-for-profit consultant working primarily in financial management. He also practices law and was part of the legal team that litigated civil rights violations arising out of 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 to 1995.

Bell Chevigny – Bell Chevigny is professor emerita of literature at Purchase College, SUNY. She has served on the [PEN Prison Writing Program](#) for around 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 (Board Chairman) – 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 those 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.

Judy Greene – Judy 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, which 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 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 years 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 was the senior partner in his own law firm for many years until his retirement. He started a national prison project through TLPJ in 2005 and has been plaintiffs’ counsel in prison-related 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 (President) – Paul Wright is the editor of *Prison Legal News* and *Criminal Legal News*, and founder of the Human Rights Defense Center. He is responsible for editorial content and HRDC’s advocacy, outreach and fundraising efforts. Paul was incarcerated for 17 years in Washington State and released in 2003. He founded HRDC in 1990 from his prison cell.

Ethan Zuckerman – Ethan Zuckerman directs the MIT Center for Civic Media, and is an Associate Professor of the Practice in Media Arts and Sciences at MIT. He is the author of *Rewire: Digital Cosmopolitans in the Age of Connection*.

FUNDING IN 2019

In 2019, HRDC was funded primarily through earned revenue from its publishing and litigation projects, as well as book sales and individual donations. We also received grant funding from the New World Foundation, Borealis Philanthropy, the Sonya Staff Foundation, and the Laura and John Arnold Foundation. HRDC performs annual financial audits, and our Form 990s are available for review.

ACTIVISM & ADVOCACY

HRDC staff engaged in a number of activism and advocacy efforts in 2019, to effect reform in our nation’s justice system and to educate the public, policymakers and the mainstream media about criminal justice and prison-related issues. Some highlights of those efforts included:

- Masimba Mutamba was a guest speaker representing the F. Malcolm Cunningham, Sr. Bar Association at the Palm Beach County Bar Association and 15th Judicial Circuit's Youth Law Day on February 23, 2019.
- Paul Wright spoke at the Cash Register Justice conference at John Jay College in New York City on March 7, 2019 discussing "Pay to Stay" jails for the wealthy.
- Paul Wright appeared on Univision in a March 9, 2019 broadcast on European Union visa changes.
- Deb Golden spoke at an Anti-Torture Initiative, International Human Rights Law Clinic, and Student Chapter of the National Lawyers Guild symposium on strategies to combat solitary confinement on March 26, 2019.
- Paul Wright again [appeared](#) on Univision to discuss the deaths of immigrants in ICE custody.
- Paul Wright spoke on a panel of the Florida Bar Association's Media Committee titled "Fake News, the First Amendment and Defamation: The Power of the Pen" on June 27, 2019; Masimba Mutamba moderated the discussion.
- A September 30, 2019 letter sent to private equity firms invested in private prison companies by Senator Elizabeth Warren and Representatives Pocan and Ocasio-Cortez [referenced](#) a Prison Legal News article by David Reutter.
- Paul Wright presented on the state of prisoners' rights in the United States at the Deerfield Progressive Forum on December 21, 2019.

MEDIA OUTREACH

HRDC's efforts to educate, advocate and litigate around prisoners' rights continued to receive national and international media attention in 2019. Coverage included newspapers, magazines, television, radio and online news outlets. HRDC staff members were interviewed and quoted, our advocacy work was profiled and our award-winning publications were cited. HRDC also issued seven press releases during 2019. The following is a partial list of the media coverage that HRDC, *Prison Legal News* and *Criminal Legal News* received in 2019, excluding articles about our litigation. Links to these articles and many others are on our website under "[In the News.](#)"

- The *News Service of Florida* reported on the U.S. Supreme Court's declining to take HRDC's appeal of its censorship case against the Florida Department of Corrections on January 7, 2019.
- The *Santa Fe New Mexican* cited HRDC's Prison Phone Justice campaign in an article on New Mexico prisoners suing over phone rates on January 20, 2019.
- Paul Wright was quoted by *Earther* in an article on a Brooklyn, New York jail's failure to provide appropriate heating to prisoners during extremely cold weather on February 4, 2019.
- The *Washington Post* quoted HRDC's Deborah Golden on Colorado's ADX Florence supermax prison in an article on El Chapo on February 14, 2019.
- *U.S. News & World Report* reported on the settlement of HRDC's censorship suit against Mississippi's Forrest County Jail on February 15, 2019.

- The *Hyde Park Herald* mentioned how reading PLN helped one Chicago prisoner toward his paralegal certificate in an article on February 22, 2019.
- The *Bemidji Pioneer* reported on PLN's advocacy for a scanning (rather than manual) search system for county jails nationwide in an article on Minnesota county jail contraband practices on February 24, 2019.
- Paul Wright was quoted by *Dame Magazine* in an article about shaming and humiliation as a form of punishment on February 28, 2019.
- *Architectural Record* mentioned *Prison Legal News'* reportage on private prison PAC Congressional campaign contributions in an article on architecture and prison reform on March 4, 2019.
- New York's *The Crime Report* quoted Paul Wright in an article about John Jay College's Cash Register Justice conference, detailing class discrepancies in criminal justice processes, on March 8, 2019.
- KJZZ 91.5 Arizona reported on the ruling in HRDC's successful censorship suit against the Arizona Department of Corrections on March 13, 2019.
- The *Associated Press* reported on HRDC's censorship suit against Tennessee's Marshall County Jail on March 18, 2019.
- Chicago's *In These Times* quoted Paul Wright in an article about the problematic lack of extension of relevant labor laws to prisoners and UNICOR prison slave labor on March 28, 2019.
- Maine's *Bangor Daily News* quoted Paul Wright extensively in an article about jail officer sexual harassment on April 1, 2019.
- Washington's *MyNorthwest* quoted HRDC's Michelle Dillon in an article on that state's prison used book ban on April 2, 2019.
- The *New Yorker* quoted Paul Wright in an article on the fight for Florida prisoners' voting rights on May 11, 2019.
- The *Washington Post* quoted HRDC's Deborah Golden in an article about El Chapo's detention conditions on May 26, 2019.
- Book Riot mentioned HRDC in a May 28, 2019 article about New Hampshire's prison book bans.
- *Newsweek* quoted HRDC's Michelle Dillon in an article on Kansas's prison book ban on May 31, 2019.
- *Law360.com* quoted HRDC's Dan Marshall in an article on how wealth influences one's legal outcome in the criminal justice system on June 2, 2019.
- The Marshall Project quoted Paul Wright in an article on prisoner voting rights on June 11, 2019.
- HRDC's Michelle Dillon was quoted in a *KCUR Kansas* article on that state's prison publication censorship on June 18, 2019.
- Arizona's *The Daily Dose* quoted Paul Wright in an article on prisoners' post-release activities on June 28, 2019.
- Tennessee's *Daily Memphian* reported extensively on the Tennessee Governor's reliance on HRDC's private prison reportage in an article about private prison accountability on July 11, 2019.

- *Washington County News* reported on the ruling in HRDC's successful censorship case against the Southwest Virginia Regional Jail Authority on June 12, 2019.
- The *Minnesota Star Tribune* quoted Paul Wright in an article on Minnesota state prison conditions on July 13, 2019.
- *Scalawag Magazine* quoted Paul Wright in an article on toxic, moldy conditions at Arkansas jails on July 15, 2019.
- *VT Digger* reported on HRDC's settlement of a Vermont FOIA suit against GEO Group on July 24, 2019.
- The *Washington Library Association Journal* published an article detailing HRDC's anti-censorship campaign on July 29, 2019.
- The New York *Daily News* quoted HRDC's Deborah Golden in an article on Jeffery Epstein's jail suicide on August 11, 2019.
- The *Post and Courier* of South Carolina quoted Paul Wright extensively in an article on prisoner-made birthday cakes published on August 20, 2019.
- The *Lawrence Journal-World* quoted Paul Wright in connection with HRDC's anti-censorship campaign in an article on Kansas's abolishment of their book ban on August 22, 2019.
- News 10, WILX Lansing, Michigan reported on HRDC's PLN censorship suit against the Michigan Department of Corrections on August 26, 2019.
- The Marshall Project extensively quoted HRDC's Sabarish Neelakanta about our class action suit against release card companies in an article on "gate money" on September 10, 2019.
- HRDC's Michelle Dillon was quoted by the *Washington Post* in an article on Florida's prison book ban on September 10, 2019.
- *VT Digger* reported on HRDC's FOIA suit against Vermont prison medical contractor Wellpath on September 12, 2019.
- Book Riot quoted HRDC's Michelle Dillon extensively in an article on prison book bans on September 12, 2019.
- HRDC's Michelle Dillon was quoted in a *Post-Intelligencer* article on prison book bans on September 24, 2019.
- *The Appeal* discussed HRDC's anti-censorship litigation in an article on September 25, 2019 on prison book bans.
- HRDC's Michelle Dillon was quoted in a *Reason.com* article on prison book bans on September 27, 2019.
- Paul Wright was quoted in a KJZZ 91.5 Arizona article on Arizona's prison book ban on October 8, 2018.
- The *Palm Beach Post* reported on the ruling in HRDC's successful juvenile solitary confinement suit at the Palm Beach County Jail on October 20, 2019.
- Paul Wright and Michelle Dillon were quoted extensively in a Book Riot article on prison censorship on October 21, 2019.
- *Longreads* quoted Paul Wright and detailed HRDC's Prison Ecology Project in an article on a "green new jail" on October 23, 2019.

- The *Tallahassee Democrat* reported on the ruling in HRDC's successful PLN censorship suit against the Florida Department of Corrections on October 26, 2019.
- HRDC's Michelle Dillon was quoted in an *Idaho Press* article on that state's prison book bans on November 2, 2019.
- The *Washington Post*, the *Laredo Morning Times*, and the *AZ Capitol Times* reported on the ruling for HRDC in its PLN censorship suit against the Arizona Department of Corrections on November 12, 2019.
- Vice.com mentioned the HRDC's Prison Phone Justice campaign in an article on the how the FCC helped pave the way for predatory prison telecoms on November 28, 2019.
- The Associated Press reported on the 10th Circuit's ruling in HRDC's ADX Florence supermax PLN censorship case on December 15, 2019.
- The *American Bar Association Journal* reported on the 10th Circuit's ruling in HRDC's ADX Florence supermax PLN censorship case on December 19, 2019.
- Paul Wright was quoted in an article by *The Intercept's* John Washington on Mike Bloomberg's use of prison labor for his 2020 presidential campaign on December 24, 2019.
- *NBC News* quoted Paul Wright about HRDC's Prison Phone Justice campaign in an article on predatory pricing on December 31, 2019.

Litigation Project

HRDC remains at the forefront of prisoners' civil rights litigation in the United States. HRDC litigates censorship cases, public records lawsuits, prison conditions and wrongful death cases, as well as class-action suits against correctional facilities nationwide. In addition to furthering prisoners' rights, all of HRDC's cases have a public education and media component to complement our criminal justice reform advocacy work.

HRDC's legal team underwent several changes in 2019. In October our former General Counsel and Litigation Director Sabarish Neelakanta left HRDC to start his own firm, and Staff Attorney Daniel Marshall was promoted to take his place. Staff Attorney Deborah Golden also left HRDC in August, although she continues to co-counsel FOIA cases in Washington, DC. Staff Attorney Masimba Mutamba, paralegal Kathy Moses, and legal assistant Robert Pew rounded out the legal team.

HRDC's litigation docket included the following cases. HRDC captions some of its censorship cases under the name of its flagship monthly publication, *Prison Legal News*.

I. FIRST AMENDMENT CENSORSHIP CASES

HRDC's First Amendment litigation seeks to protect the rights of prisoners and their correspondents to receive books, magazines, and



*HRDC General Counsel and
Litigation Director
Daniel Marshall*



*HRDC staff attorney
Masimba Mutamba*

letters free from government censorship. The first issue of *Prison Legal News (PLN)* was banned by prison officials on the pretext that it posed a security risk. In fact, *PLN* and many of HRDC's publications and books have been targeted for censorship because they highlight constitutional abuses, misconduct and corruption within prisons and jails. However, these unconstitutional attempts to thwart HRDC's mission to inform and educate prisoners about their legal rights have largely been unsuccessful when challenged in court. HRDC has a lengthy track record of prevailing in First Amendment cases.

The determined effort by HRDC's legal team to challenge such censorship and ensure that detention officials do not violate the First Amendment has been one of the hallmarks of our litigation project. Even though prisons and jails have adopted new and creative ways to hinder access to constitutionally-protected publications, HRDC continues to fight censorship and expand the jurisprudence on the First Amendment rights of prisoners and those who correspond with them.

A. New Cases Filed in 2019

1. ***Human Rights Defense Center v. Heidi Washington et al. (Michigan DOC)*** – On Aug. 22, 2019, HRDC filed suit against the Michigan Department of Corrections for censorship of *Prison Legal News* and HRDC's books, and the failure to provide due process notice of the censorship decisions. HRDC is represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Daniel Marshall and Masimba Mutamba, as well as attorneys James Stewart, Andrew Pauwels, and Rian Dawson with the law firm of Honigman LLP, and Dan Manville of the Michigan State University College of Law Civil Rights Clinic.
2. ***Human Rights Defense Center v. Marshall County (TN)*** – On March 7, 2019, HRDC filed suit in federal court against Marshall County, Tennessee for the unlawful censorship of *Prison Legal News* and *Criminal Legal News*. The magazines were rejected because the jail prohibited mail that contained staples. Further, the censorship of the publications at the county jail was implemented without due process notice or opportunity to appeal, prompting HRDC to seek a preliminary injunction. After the filing of the lawsuit, HRDC and the defendants agreed to a preliminary injunction ensuring the delivery of HRDC's magazines and mandating that the jail provide due process protections. In November, the parties agreed to settle the case, making the provisions of the preliminary injunction permanent and providing for an award of \$80,000 in damages, fees, and costs. HRDC was represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Daniel Marshall and Masimba Mutamba; by Gautam Hans of the Vanderbilt Law School First Amendment Clinic; and by Bruce E.H. Johnson with Davis Wright Tremaine, LLP.

B. Cases Still Pending in 2019

1. ***Human Rights Defense Center v. Baxter County (AR)*** – On August 21, 2017, HRDC filed suit challenging a postcard-only policy at the Baxter County Jail in Arkansas. After granting HRDC partial summary judgment on its due process claims, in January 2019 the Court held a bench trial on HRDC's First Amendment claims. After the Court ruled in defendant's favor, HRDC filed an appeal to the Eighth Circuit Court of Appeals. The

appeal was still pending at the end of 2019. HRDC is represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Daniel Marshall and Masimba Mutamba; by Paul J. James with James, Carter & Priebe, LLP; and by Bruce E.H. Johnson and Caesar Kowith Davis Wright Tremaine, LLP.

2. ***Human Rights Defense Center v. Union County (AR)*** – On October 30, 2017, HRDC filed a lawsuit challenging a postcard-only policy at the jail in Union County, Arkansas. Proceedings in this case have been stayed pending the outcome of the appeal in the Baxter County case. HRDC is represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Masimba Mutamba and Daniel Marshall; by local counsel Paul J. James with James, Carter & Priebe, LLP; and by Bruce E.H. Johnson and Caesar Kalinowski IV with Davis Wright Tremaine, LLP.
3. ***Human Rights Defense Center v. Southwest Virginia Regional Jail Authority (VA)*** – On March 28, 2018, HRDC filed suit and sought a preliminary injunction against the Southwest Regional Authority, which consists of four detention facilities, for censoring HRDC’s books, magazines and correspondence without due process. The Court granted a preliminary injunction in 2018. After conducting discovery, the Court granted summary judgment to HRDC on the issue of the defendants’ liability in June 2019. The parties entered a settlement agreement as to damages in November 2019. As of the end of 2019, HRDC’s request for a permanent injunction was still pending before the Court. HRDC is represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Masimba Mutamba and Daniel Marshall; by Thomas Hentoff, Sean Douglass and Thomas Chapman with Williams & Connolly; and by Bruce E.H. Johnson with Davis Wright Tremaine, LLP.
4. ***Prison Legal News v. Director Charles Ryan (Arizona DOC)*** – HRDC filed suit against the Arizona DOC in 2015 over the censorship of certain issues of *Prison Legal News* on the spurious basis that they contained sexually explicit content, and the DOC’s failure to provide due process notice. After numerous discovery disputes that extended into early 2018, the parties filed cross motions for summary judgment. In March 2019 the Court granted summary judgment to HRDC. Defendants’ appeal to the Ninth Circuit Court of Appeal remains pending at the end of 2019. HRDC is represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Masimba Mutamba and Daniel Marshall; by attorneys Lisa Ells, Caroline Jackson, Jenny Yelin, Krista Stone-Manista and Andrew Pope with Rosen Bien Galvan & Grunfeld, LLP; and by David Bodney and Michael A. DiGiacomo with Ballard Spahr, LLP in Phoenix, Arizona.
5. ***Prison Legal News v. Northwestern Virginia Regional Adult Detention Center (VA)*** – After the district court granted partial summary judgment, the parties appeared before Judge Elizabeth Dillon for a bench trial in November 2018 as to the defendants’ liability on HRDC’s First Amendment claim and compensatory damages on both its First and Fourteenth Amendment claims. In September 2019 the Court granted HRDC over \$1,000 in actual damages for the violations of its First and Fourteenth Amendment rights. HRDC’s motion for attorneys’ fees and costs was still pending before the Court at the end of 2019. HRDC is represented by general counsel and litigation director Sabarish

Neelakanta, and staff attorneys Masimba Mutamba and Daniel Marshall; and by local counsel Jeff Fogel and Steve Rosenfield.

- 6. *Human Rights Defense Center v. Commissioner Rodney Ballard (Kentucky DOC)*** – HRDC filed suit against the Kentucky Dept. of Corrections in July 2017 for censoring books mailed to prisoners. After discovery, the parties reached a settlement agreement of the injunctive claims in October 2018, followed in April 2019 by an agreement for defendants to pay \$26,000 in damages. At the end of 2019 HRDC awaits the Court’s ruling on its motion for attorneys’ fees and costs. HRDC is represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Masimba Mutamba and Daniel Marshall; by Gregory Belzley with the law firm of Belzley Bathurst, and by Bruce E.H. Johnson with Davis Wright Tremaine, LLP.
- 7. *Human Rights Defense Center v. Director John R. Baldwin (Illinois DOC)*** – On Feb. 2, 2018, HRDC filed suit against the Illinois Department of Corrections for censorship of *Prison Legal News* and the failure to provide due process notice of the censorship decisions. In late March 2018, HRDC also filed a motion for a preliminary injunction seeking to end the censorship of *Prison Legal News* while the case is pending. Later in 2018, another lawsuit brought on behalf of the publication *Black and Pink*, based on similar censorship and due process violations, was re-assigned to the same district court. As of the end of 2019, the DOC has revised its mail policy, while counsel for HRDC and *Black and Pink* have been investigating censorship at prison mailrooms and providing reports to the court. HRDC is represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Daniel Marshall and Masimba Mutamba, as well as attorneys Marc Zubick, Malorie Medellin, Sarah Wang, and Greer Gaddie with the law firm of Latham & Watkins, LLP, and Nicole Schult, Elizabeth Mazur, and Alan Mills with the Uptown People’s Law Center
- 8. *Human Rights Defense Center v. Sheriff Irwin Carmichael (Mecklenburg County, NC)*** – On April 24, 2018, HRDC sued the Sheriff of Mecklenburg County and several other jail officials for the unlawful censorship of HRDC’s magazines, books and correspondence, and for failing to provide due process notice of censorship decisions. HRDC further sought a preliminary injunction preventing the jail from continuing to censor HRDC’s mail without due process. Prior to a hearing on the preliminary injunction, in June 2018, Sheriff Irwin Carmichael entered into a consent decree that required explicit due process notice for censorship of any mail, and allowed the delivery of HRDC publications. At the end of 2019, the court granted defendants’ motion seeking to dismiss the claims against the individual defendants, as well as HRDC’s equal protection claim. The First and Fourteenth Amendment claims against Sheriff Carmichael in his official capacity remained pending. HRDC is represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Daniel Marshall and Masimba Mutamba; by Paul Cox and Jonathan Sasser with Ellis & Winters LLP; and by Bruce E.H. Johnson with Davis Wright Tremaine, LLP.

C. Cases Resolved in 2019

1. ***Prison Legal News v. Julie Jones (Florida DOC)*** – On November 17, 2011, HRDC filed suit challenging a ban on *Prison Legal News* by the Florida Dept. of Corrections (FDOC). The statewide ban was purportedly based on *PLN*'s advertising content, including pen pal and phone service ads. A bench trial was held in January 2015, and in August 2015 the district court held that FDOC's censorship of *PLN* was permissible but prison officials had violated HRDC's due process rights; the court issued an injunction against the FDOC on the latter grounds. HRDC filed an appeal with the Eleventh Circuit, which affirmed the district court's finding that the FDOC had violated HRDC's due process rights, warranting injunctive relief, but that the censorship did not violate its First Amendment rights. The US Supreme Court denied HRDC's petition for review. In 2019 the trial court ruled that HRDC's victory on the due process issue entitled it to \$1,187,863 in attorneys' fees and costs. HRDC was represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Masimba Mutamba and Daniel Marshall; by Randall Berg and Dante Trevisani with the Florida Justice Institute; by Benjamin Stevenson and Nancy Abudu with the ACLU of Florida; and on appeal by Paul Clement and Michael McGinley with the law firm of Bancroft PLLC.
2. ***Prison Legal News v. Sheriff Thomas Dart (Cook County, IL)*** – Since June 2016, HRDC has pursued a federal lawsuit over the censorship of books and magazines sent to prisoners at the Cook County jail in Chicago, and the jail's failure to provide due process notice of such censorship. After discovery the parties agreed to a tentative injunctive and damages settlement agreement. In April 2019 the parties further agreed that defendants would pay HRDC \$75,000 in attorneys' fees and costs. HRDC was represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Masimba Mutamba and Daniel Marshall, and by local counsel Matthew Topic with the law firm of Loevy & Loevy.
3. ***Human Rights Defense Center v. Board of County Commissioners of the County of Santa Fe (NM)*** – On April 2, 2018, HRDC filed suit against Santa Fe County for censoring books mailed to prisoners at the county jail, and sought a preliminary injunction to prevent future censorship and provide for due process protections. The jail immediately changed its mail policy to allow for the receipt of all HRDC publications and ensure due process in the event that mail is censored. In 2019, the settlement of the case was finalized, including the payment of \$25,500 to HRDC for attorneys' fees and costs. HRDC was represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Daniel Marshall and Masimba Mutamba; by Laura S. Ives of Kennedy Kennedy Ives; and by Bruce E.H. Johnson with Davis Wright Tremaine, LLP.
4. ***Human Rights Defense Center v. Board of County Commissioners of the County of San Miguel (NM)*** – On April 17, 2018, HRDC filed suit against San Miguel County for censoring books and magazines mailed to prisoners at the county jail, and sought a preliminary injunction to prevent future censorship and provide for due process protections. Just as in Santa Fe County, the jail immediately changed its mail policy to allow for the receipt of all HRDC publications and ensure due process in the event that

mail is censored. Defendants in this case also agreed to pay HRDC \$25,500 in attorney's fees and costs. HRDC was represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Daniel Marshall and Masimba Mutamba; by Laura S. Ives of Kennedy Kennedy Ives; and by Bruce E.H. Johnson with Davis Wright Tremaine, LLP.

5. ***Human Rights Defense Center v. Board of County Commissioners (Pontotoc, OK)*** – On May 9, 2018, HRDC filed suit over the censorship of books at the Pontotoc County Jail in Oklahoma. HRDC had sent 30 books to prisoners at the jail, which were all censored without due process notice. HRDC also sought preliminary injunctive relief. The defendants changed their mail policy to ensure that HRDC and other publishers can send books to prisoners at the jail without censorship or lack of due process notice. The parties entered into a consent decree preserving publishers' right to send books to the jail. Additionally, defendants agreed to pay HRDC \$20,000 in attorneys' fees and costs. HRDC was represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Daniel Marshall and Masimba Mutamba, and by Robert D. Nelon with the law firm of Hall Estill.
6. ***Human Rights Defense Center v. Forrest County (MS)*** – HRDC and the Mississippi Center for Justice filed suit in federal court on October 24, 2018 against Forrest County, Mississippi, Sheriff Billy McGee, and staff members at the Forrest County jail. The complaint noted that “most books and most publications are banned” at the facility, and “For the most part, prisoners are allowed to read only the Bible and sometimes other Christian publications.” Jail officials censored issues of *PLN* as well as books and copies of court rulings sent to prisoners, and did not provide due process notice or any opportunity for HRDC to appeal or challenge the censorship. In February 2019 the parties entered into a stipulated injunction ensuring that HRDC's publications would not be censored by the jail, and providing for due process if an item was rejected. Further, defendants agreed to pay HRDC \$25,000 in attorneys' fees and costs. HRDC was represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Masimba Mutamba and Daniel Marshall; by Beth L. Orlansky, advocacy director with the Mississippi Center for Justice (MCJ); and by Rob McDuff, who directs MCJ's George Riley Impact Litigation Initiative.
7. ***Prison Legal News v. Federal Bureau of Prisons (ADX)*** – HRDC's lawsuit against the federal Bureau of Prisons' highest-security facility, ADX Florence in Colorado, due to censorship of *Prison Legal News* and lack of adequate due process notice, came to an end in 2019. HRDC filed a motion for summary judgment seeking injunctive and declaratory relief, while the defendants sought summary judgment on the grounds that a December 2017 policy change, which they claimed allows for delivery of HRDC publications, effectively mooted the requested injunctive relief. In October 2018, the court granted summary judgment to the defendants. HRDC appealed to the Tenth Circuit Court of Appeals, which in December 2019 issued an opinion affirming the trial court. HRDC was represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Masimba Mutamba and Daniel Marshall; by Peter Swanson, Matthew Shapanka and Stephen Kiehl with Covington & Burling, LLP in Washington, D.C.; by Steven Zansberg with Levine Sullivan Koch & Schulz, LLP in Denver; by Professor

David Shapiro with the Northwestern University Pritzker School of Law; and by Elliot Mincberg with the Washington Lawyers' Committee for Civil Rights & Urban Affairs in Washington, D.C

II. PUBLIC RECORDS AND FOIA CASES

HRDC also litigates public records and Freedom of Information Act (FOIA) cases across the country related to police, prisons, jails, and other detention centers, seeking information on such issues as government contracts with private companies engaged in detention services, and settlements and verdicts in lawsuits involving detention facilities and law enforcement agencies. HRDC uses this information to ensure government transparency and accountability, while engaging in news reporting and research on issues related to the criminal justice system.

A. New Cases Filed in 2019

1. ***Human Rights Defense Center v. Dept. of Health & Human Services*** – HRDC filed suit against the Department of Health & Human Services on May 28, 2019 after that agency failed to produce contracts with the Vera Institute of Justice. The agency quickly agreed to produce the requested records. At the end of 2019 the agency was in the process of doing so. HRDC is represented by staff attorneys Deb Golden and Daniel Marshall
2. ***Human Rights Defense Center v. United States Park Police*** – On May 23, 2019 HRDC filed suit against the United States Park Police after that agency failed to respond to a FOIA request for litigation and claims against the agency. The parties entered into an agreement for the defendant to produce responsive records. At the end of the year the agency was in the process of doing so. HRDC is represented by staff attorneys Deb Golden and Daniel Marshall.
3. ***Human Rights Defense Center v. Washington Metropolitan Area Transit Authority*** – On July 16, 2019 HRDC sued WMATA seeking records concerning claims, verdicts, and settlements against WMATA's police force. Defendant filed a motion to dismiss, arguing that it was not required by law to disclose the documents. The motion is still pending before the Court at the end of the year. HRDC is represented by staff attorneys Deb Golden and Daniel Marshall.
4. ***Human Rights Defense Center v. United States Customs & Border Protection*** – On December 10, 2019 HRDC filed suit against the United States Customs and Border Protection over the non-disclosure of records regarding claims, verdicts, and settlements against that agency. At the end of the year HRDC is awaiting CBP's answer. HRDC is represented by General Counsel Daniel Marshall and Deb Golden of the Law Office of Deborah M. Golden.
5. ***Human Rights Defense Center v. Centurion of Florida, LLC and MHM Health Professionals, LLC*** – On December 6, 2019 HRDC sued two private companies who provide health care to prisoners in the custody of the Florida Department of Corrections. The companies had rejected HRDC's public records request for the personnel file of one

of their employee doctors. At the end of the year HRDC is awaiting the defendants' answers. HRDC is represented by General Counsel Daniel Marshall and staff attorney Masimba Mutamba.

- 6. *Human Rights Defense Center v. Sandoval County, et al.* (NM)** – On August 14, 2019 HRDC sued Sandoval County, NM and several of its employees due to its denial of HRDC's request for records concerning claims, verdicts, and settlements against the Sandoval County Sheriff's Department. The defendants immediately produced the requested records. At the end of 2019 the parties are negotiating the resolution of HRDC's claims for damages and attorneys' fees. HRDC is represented by General Counsel Sabarish Neelakanta, and by Mark Donatelli and Caroline Manierre with the law firm of Rothstein Donatelli, LLP.

B. Public Records Cases Resolved in 2019

- 1. *Human Rights Defense Center v. GEO Group (Vermont)*** – HRDC filed suit against private prison operator GEO Group on May 9, 2018, after the company failed to respond to a public records request related to litigation and claims involving Vermont prisoners housed at a GEO facility. In February 2019 the parties agreed to settle the case. GEO disclosed the requested documents and paid Plaintiff's attorneys' fees. HRDC was represented by staff attorney Deb Golden and Vermont attorney Robert Appel.
- 2. *Human Rights Defense Center v. Bureau of Prisons*** – On May 4, 2018, HRDC filed suit requesting records related to the BOP's phone, video visitation and debit card contracts, as the agency had previously denied our FOIA request. In June 2019 the parties entered into a settlement agreement whereby the defendant produced the requested documents and paid HRDC \$16,000 in attorneys' fees. HRDC was represented by staff attorney Deb Golden.
- 3. *Human Rights Defense Center v. District of Columbia*** – On December 4, 2018, HRDC filed suit against Muriel Bowser, Mayor of the District of Columbia, and Quincy Booth, director of the District of Columbia Department of Corrections, seeking records and written statements related to the shackling and confinement of pregnant prisoners. The case was resolved in 2019 when Defendant produced the documents at issue and paid HRDC's attorneys' fees. HRDC was represented by staff attorney Deb Golden.
- 4. *Human Rights Defense Center v. Otero County (NM)*** – On August 31, 2018, HRDC filed suit seeking disclosure of records concerning claims and lawsuits against the Otero County Detention Center, after the county failed to produce the documents in violation of New Mexico's Inspection of Public Records Act. Defendant had provided the requested documents in 2018, and in March 2019 Defendant paid \$18,000 to settle HRDC's claims for damages and attorneys' fees. HRDC was represented by staff attorney Deb Golden, and by Mark Donatelli and Caroline Manierre with the law firm of Rothstein Donatelli, LLP.

C. Public Records Cases Still Pending in 2019

- 1. *Prison Legal News v. Corizon Health* (NM)** – In March 2016, HRDC filed a public records complaint against private prison medical contractor Corizon Health in New Mexico, over the company’s failure to produce records related to litigation, settlements and verdicts in connection with its contract with the New Mexico Department of Corrections. Corizon argued that it was not subject to the state’s public records law because it is not a public entity, despite the fact that it performs a core governmental function of providing healthcare to prisoners. In 2019 another New Mexico court ruled against Corizon on this very issue. At the end of the year the parties are litigating whether to lift the stay that had been entered pending the outcome in the other case. HRDC is represented by general counsel and litigation director Sabarish Neelakanta, staff attorney Daniel Marshall, and by local counsel Laura Schauer Ives with Kennedy, Kennedy & Ives in Albuquerque.
- 2. *Human Rights Defense Center v. Corizon* (FL)** – On July 26, 2018, HRDC filed a lawsuit against Corizon Health, Inc. – the former medical provider for the Florida Dept. of Corrections – seeking disclosure of verdicts and settlements involving the company over a six-year period. Corizon failed to produce the documents or admit that it was subject to the public records law in Florida. The Court granted summary judgment in HRDC’s favor in July 2019, and Corizon produced the requested documents. At the end of the year the parties are litigating the amount of attorneys’ fees owed to HRDC. HRDC is represented by general counsel and litigation director Sabarish Neelakanta, and staff attorneys Masimba Mutamba and Daniel Marshall; and by Deanna Shullman and Giselle M. Girones with Shullman Fugate, PLLC.
- 3. *Human Rights Defense Center and Michelle Dillon v. Dept. of Homeland Security & Immigration and Customs Enforcement*** – On August 3, 2018, HRDC requested records related to litigation against ICE and its employees or agents created since January 1, 2010. Because ICE failed to produce responsive documents, HRDC filed suit in the Western District of Washington alleging that the non-disclosure violated the Freedom of Information Act. By the end of 2019, Defendants had disclosed most of the responsive documents. The issue of attorneys’ fees remained outstanding. HRDC is represented by general counsel Sabarish Neelakanta and staff attorney Deb Golden, and by Eric M. Stahl with Davis Wright Tremaine, LLP.
- 4. *Human Rights Defense Center and Michelle Dillon v. U.S. Dept. of Health and Human Services & Office of Refugee Resettlement*** – HRDC filed suit on October 1, 2018, seeking records related to litigation against the U.S. Dept. of Health and Human Services and Office of Refugee Resettlement. The defendants responded in November 2018, denying that they had any obligation to disclose the records. Despite the defendant’s assertions, it has since agreed to produce the requested documents in a rolling production. At the end of 2019 they were in the process of doing so. HRDC is represented by staff attorney Deb Golden and by Jeremy E. Roller with Yarmuth Wilsdon, PLLC.

5. ***Human Rights Defense Center v. GEO Group (Texas)*** – HRDC filed suit against the GEO Group on August 28, 2018, after the company failed to produce records related to verdicts and settlements involving GEO facilities in Texas. The company filed a motion to dismiss, which was denied by the court, and the parties were engaged in discovery as of the end of the year. HRDC was forced to file a motion to compel discovery responses due to GEO’s intransigence. HRDC is represented by staff attorneys Deb Golden and Daniel Marshall, and by Thomas Leatherbury and Michelle Arishita with the law firm of Vinson and Elkins.

III. CONSUMER CLASS-ACTIONS

As part of its [Stop Prison Profiteering](#) campaign, HRDC has focused attention on challenging the exploitive business practices of private companies awarded lucrative monopoly contracts with prisons and jails to provide services to prisoners, often at exorbitant costs and with hidden fees and charges. Accordingly, HRDC has spearheaded consumer class-action lawsuits against some of those companies. Specifically, we have been tackling the practice of issuing fee-laden debit cards to prisoners upon their release in lieu of a check or cash. Prisoners have no choice but to accept the cards, and must pay a variety of fees that reduce their available funds.

A. Cases Resolved in 2019

1. ***Reyes v. JPay, Inc.*** – On January 12, 2018, Joe Rudy Reyes [filed a class-action lawsuit](#) against JPay, Inc., Sunrise Bank and Praxell, Inc. for issuing fee-laden debit cards in lieu of cash or checks to prisoners released from the California Department of Corrections and Rehabilitation (CDCR). Mr. Reyes, like thousands of other CDCR prisoners, was given a pre-activated debit card containing the funds from his prison trust account. He had no choice but to accept the card, and was not provided with any terms and conditions detailing the numerous fees and surcharges associated with its use and maintenance. Mr. Reyes filed suit asserting violations under the Electronic Funds Transfer Act, California consumer protection laws, and common law claims of conversion and unjust enrichment. The defendants filed a motion to compel arbitration, claiming that by accepting the debit card, Reyes was subject to its arbitration provisions. In June 2018, the court agreed and granted the defendants’ motion. In May 2019 the Ninth Circuit denied Mr. Reyes’ petition for a writ of mandamus, and the case was ultimately settled in arbitration. Mr. Reyes was represented by HRDC general counsel and litigation director Sabarish Neelakanta, and staff attorneys Daniel Marshall and Masimba Mutamba; and by Mark Griffin and Laura Gerber with the law firm of Keller Rohrbach. On the petition for mandamus, he was also represented by Karla Gilbride with Public Justice, P.C.

B. Cases Still Pending in 2019

1. ***Reichert v. Keefe Commissary Network, LLC*** – Jeffrey Reichert was arrested and booked into the Kitsap County Jail in Washington State in October 2016. When he entered the jail he had approximately \$177.66 in cash. Upon his release a short time later, he received a prepaid debit card instead of the cash he had surrendered. The card required Mr. Reichert to pay unreasonable and excessive fees in order to access his own money; he never consented to receiving the card instead of cash, and never agreed to any contract with the defendants, including Keefe Commissary Network. A class-action lawsuit was

filed in October 2017, arguing that those practices violated the Takings Clause, the Electronic Funds Transfer Act, the Washington Consumer Protection Act and common law claims of conversion and unjust enrichment. In May 2019 the court certified a national class and a Washington state class. At the end of 2019 discovery continues. Defendants attempted to appeal the Court's order on class certification, but were denied. Defendants have also appealed the denial of their motions to compel arbitration, which appeals are still pending. Mr. Reichert is represented by HRDC general counsel and litigation director Sabarish Neelakanta, and staff attorneys Daniel Marshall and Masimba Mutamba; and by Chris Youtz, Rick Spoonemore, and Eleanor Hamburger with the firm of Sirianni Youtz Spoonemore Hamburger, PLLC.

2. ***Brown v. Stored Value Cards*** – Danica Brown was charged with interfering with an officer during a peaceful protest of the 2014 police shooting death of Michael Brown, and booked into the Multnomah County Detention Center in Portland, Oregon. At the time of her arrest she had approximately \$30 in cash on her person, which the jail confiscated. After releasing her the next day, Ms. Brown did not receive her cash but instead was given a preloaded debit card that assessed various exorbitant fees. No one asked her whether she wanted to receive her money on a debit card, nor did she consent to receiving the card instead of cash. Ms. Brown also did not receive any cardholder agreement or terms and conditions, and never agreed to arbitrate claims associated with the card. She filed a class-action lawsuit alleging the return of her money in the form of a fee-laden debit card violated the Electronic Funds Transfer Act and the Oregon Unfair Trade Practices Act, along with claims of conversion and unjust enrichment. The parties have extensively litigated the case, and the trial Court granted summary judgment to the defendants in 2018. Ms. Brown appealed, and the Ninth Circuit Court of Appeal heard oral argument in December 2019. At the close of the year the parties were awaiting the appellate court's decision. Ms. Brown is represented by HRDC general counsel and litigation director Sabarish Neelakanta; and by Karla Gilbride with Public Justice, P.C. on appeal.

IV. PRISON CONDITIONS / DEATH CASES

A. Cases Still Pending in 2019

1. ***Lorine Gaines v. Julie Jones (FL)*** – On August 1, 2018, HRDC filed a [wrongful death lawsuit](#) in federal court on behalf of the mother of a Florida state prisoner, Vincent Gaines, who died of starvation and inadequate medical and mental health care in December 2015. Vincent was serving a five-year sentence; he had previously been hospitalized twice for mental health care, and diagnosed with bipolar disorder and mania with psychotic features. He was transferred to the Florida Department of Correction's (FDOC) Transitional Care Unit at the Dade Correctional Institution in March 2014, due to hallucinations and delusions. As part of his treatment plan, Vincent was placed on a "boneless diet" served without utensils. Following a disciplinary report in April 2015 for trying to enter the facility's food service area without permission, he was transferred to the Florida State Prison in Raiford, then to the Union Correctional Institution, where he was placed in Close Management status (solitary confinement). While held by the FDOC, his psychotropic medications were discontinued. On December 1, 2015, a Corizon Health

social worker intern wrote that Vincent was “alert, calm and cooperative and his speech was appropriate.” However, two days later he was found unresponsive in his cell and pronounced dead. According to the Medical Examiner, at the time of his death Vincent was 5’9” and weighed just 115 pounds. During his two-and-a-half years in FDOC custody, while under Corizon’s medical and mental health care, he had lost 75 pounds – around 40 percent of his body weight. He essentially starved to death. The lawsuit was brought by Vincent’s mother, Lorine Gaines, and raises claims under the Americans with Disabilities Act and the Eighth and Fourteenth Amendments. The defendants named in the complaint include FDOC Secretary Julie Jones, prison employee Kevin D. Jordan, Corizon Health – the FDOC’s former medical contractor, a number of medical personnel who failed to treat Mr. Gaines, and two guards who allegedly withheld food. The plaintiffs are in the process of conducting discovery at the end of the year. Mrs. Gaines is represented by HRDC general counsel and litigation director Sabarish Neelakanta, and staff attorneys Daniel Marshall and Masimba Mutamba; by Jack Scarola and Elise Allison of Searcy, Denney, Scarola, Barnhardt and Shipley, PA; and by Edwin Ferguson with The Ferguson Firm, PLLC.

V. AMICUS BRIEFS

The Human Rights Defense Center joined in the following amicus briefs in 2019:

- 1. *Renado Smith and Richard Delancy v. USA*** – In Defendant’s criminal trial, the Government was allowed to play a videotaped deposition of its primary, crucial witness to the jury, even though it had negligently allowed her to abscond before trial and then failed to pursue a fresh lead that she was living with her boyfriend. The Government said that one reason it did not try to find the boyfriend’s address using a routine database search (at essentially no cost to the Government) was because the Government already had its witness’s testimony in hand. Defendants argued unsuccessfully that the prosecutors’ actions violated the Confrontation Clause of the U.S. Constitution. In October 2019, HRDC and other criminal defense and civil rights organizations joined an [amicus brief](#) in support of Defendants’ petition for writ of *certiorari* to the United States Supreme Court. The brief was authored by the law firm of Goldstein & Russell, PC.
- 2. *Georgia v. Public.Resource.Org, Inc.*** – The State of Georgia granted a copyright for the annotations to its statutes. Public.Resource.Org wanted to provide the annotations on its website, and argued that the copyright violated The First Amendment right of access to important government information. In October 2019 HRDC joined an amicus brief in support of Public Resource. The brief was authored by the First Amendment Clinic at the Vanderbilt University Law School.
- 3. *In re County Inmate Telephone Services Cases*** –Prisoners in California brought several lawsuits challenging the site commissions in contracts between jails and private companies in the inmate calling services market. A state court dismissed the claims, finding the prisoners did not have standing. On appeal, HRDC joined numerous civil rights organizations in filing an amicus brief on behalf of the plaintiff inmates. The brief was authored by Catherine Sweetser of the firm Schonbrun Seplow Harris & Hoffman LLP.

OTHER ACTIVITIES

CAMPAIGN FOR PRISON PHONE JUSTICE

HRDC co-founded the national [Campaign for Prison Phone Justice](#) in 2011, with the goal of reducing the cost of phone calls

between prisoners and their family members. As part of our strategy to achieve this goal, HRDC worked extensively with the Federal Communications Commission (FCC) from 2011 through 2016, speaking at FCC workshops and filing comments on the docket for the Wright Petition – an FCC proceeding seeking to reduce the high cost of prison and jail calls.

The FCC initially capped the cost of interstate (long distance) prison and jail phone calls in 2013 and later capped rates for intrastate (in-state) calls, but on June 13, 2017, the D.C. Circuit Court of Appeals [issued a ruling](#) that vacated the intrastate rate caps. Further, the appellate court vacated reporting requirements for video calling services, struck down the exclusion of “commission” kickbacks from call cost calculations and held the “FCC had no authority to impose ancillary fee caps with respect to intrastate calls.” Under the leadership of Chairman Ajit Pai, the FCC did not defend its intrastate rate caps before the Court of Appeals.

HRDC also successfully objected to Securus’ merger with another prison telecom, ICSolutions, “as that would further increase the duopoly nature of the ICS industry” and result in “even less competition.”

Additionally, on July 16, 2018, HRDC and several other organizations joined the Wright petitioners in filing a [Petition to Deny](#) on the FCC docket, in opposition to the proposed merger between Securus Technologies and ICSolutions. The petition noted that “Securus has clearly demonstrated that it lacks the character qualifications to remain a holder of Commission-issued authorizations.” The merger was denied by the FCC finding it would undercut what little competition remains in the prison phone industry.



STOP PRISON PROFITEERING CAMPAIGN

HRDC’s [Stop Prison Profiteering campaign](#) focuses on the ongoing financial exploitation

of prisoners and their families by both government agencies and private companies that provide prison and jail-related services. Such exploitation includes the egregious cost of video calling, commissary items, money transfers, and secure email and tablet services, as well as the growing practice of releasing prisoners with fee-laden debit cards. Compounding these practices are monopoly contracts between corrections agencies and private companies, which are frequently awarded in exchange for “commission” kickbacks.

Our Stop Prison Profiteering activities in 2019 focused on obtaining data and contracts underlying these exploitive practices through public records requests submitted to corrections agencies, as well as litigation over the practice of issuing debit release cards.

During 2018 we filed a new lawsuit in California over debit cards issued to prisoners released from state prisons (*Reyes v. JPay*), and continued litigating two ongoing cases in Washington (*Reichert v. Keefe Commissary Network, LLC*) and Oregon (*Brown v. Stored Value Cards*). For details on those cases, see the litigation section above.



PRISON ECOLOGY PROJECT

HRDC's [Prison Ecology Project](#) (PEP) began in the spring of 2015 to address the intersection of environmental justice and criminal justice, including the impact of detention facilities on the environment and the environment's impact on prisoners and prison staff.

HRDC special projects coordinator Panagiotti Tsolkas continued to work on prison environmental issues in 2019, including opposition to the construction of a new federal prison in Letcher County, Kentucky on the site of a former coal mine. A [lawsuit](#) was filed by federal prisoners and the Abolitionist Law Center in November 2018; the prisoners claimed they had not been properly informed about the proposed Letcher County prison so they could submit comments during the Environmental Impact Statement (EIS) process. The Letcher county prison has been abandoned by the BOP thanks to this campaign.



FOIA PROJECT

HRDC launched an ambitious national public records project in October 2017 with the help of a generous donor. This initiative aims to expose the scope of abuses and misconduct in law enforcement agencies, prisons and jails, and prosecutor's offices nationwide – including the money paid by the government to settle lawsuits over such issues. The goal of HRDC's Freedom of Information Act (FOIA) Project is to uncover, document and report wrongdoing by law enforcement agencies and officials to an extent previously unachieved, providing the public with a comprehensive look at the true costs of our nation's criminal justice system. Through this campaign we also hope to expand our long-standing goal of challenging and improving accessibility to public records.

Throughout 2019, HRDC public records manager and development coordinator Michelle Dillon continued to submit Freedom of Information Act and public records requests to law enforcement and corrections agencies nationwide. Our FOIA Project filed six lawsuits in 2019 over denials of our public records requests. For details on those cases, see the litigation section above.



HRDC SOCIAL MEDIA

HRDC maintains a robust social media presence, including three accounts on Facebook ([PLN](#), [CLN](#) and [HRDC](#)), a [Twitter](#) account and a free [email newsletter](#) published five days a week. At the end of 2019, HRDC had 4,672 e-newsletter members, 13,870 combined Facebook likes, 19,700 Twitter followers and 525 followers on LinkedIn.



COLLABORATIONS & AFFILIATIONS

HRDC collaborated with other organizations in 2019 on a variety of litigation, advocacy efforts, reports, campaigns and other projects – including Worth Rises, Working Narratives, the Prison Policy Initiative and the Private Corrections Institute. Additionally, HRDC staff members maintained the following affiliations with other organizations:

- **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 Bar Association, American Correctional Association and American Jail Association.
- **HRDC general counsel and litigation director Daniel Marshall** is a member of the National Lawyers Guild's National Police Accountability Project, the Florida Association of Criminal Defense Lawyers and the Palm Beach County Association of Criminal Defense Lawyers.
- **HRDC staff attorney and William A. Trine Fellow Masimba Mutamba** is a Florida Bar Delegate to the American Bar Association House of Delegates, a representative on the Florida Bar Young Lawyers Division Board of Governors, and an appointed member of the Florida Bar's Standing Committee on Media & Communications Law. He is also a member of the National Lawyers Guild's National Police Accountability Project. In his local community, Masimba is actively involved in the Palm Beach County Judicial Diversity Initiative, the F. Malcolm Cunningham, Sr. Bar Association, the Palm Beach County Bar Association's standing Committee for Diversity and Inclusion, and that Bar's Young Lawyers Section.

LOOKING FORWARD: GOALS FOR 2020

HRDC plans to continue our criminal justice reform and public education efforts in 2020 with respect to our media outreach, litigation project, publishing, advocacy and other activities. Our websites continue to be important sources of news and research for prisoners' rights advocates, policy makers, attorneys, academics, journalists and other people with an interest in criminal justice-related issues.

HRDC's litigation project expanded in 2019 due to ongoing censorship of *Prison Legal News*, *Criminal Legal News* and the books we distribute by prison and jail officials, and we expect that trend to continue in 2020. We plan to file additional legal challenges through our FOIA Project due to denials of our public records requests, and to pursue additional litigation through our Stop Prison Profiteering campaign.

While HRDC continues to coordinate the national Campaign for Prison Phone Justice and advocate for lower prison and jail phone rates, due to the lack of interest in that issue by the FCC under its current leadership, we intend to focus on state-level reforms and advocacy and on litigation.

Our Prison Ecology Project will continue to collect data and report on environmental issues affecting prisoners, and to advocate for prisoners' environmental health rights and against prisons and jails located in or near areas with significant ecological hazards. We will report on issues related to prison environmental concerns in *PLN*.

Our book publishing plans for 2020 include an updated edition of *With Liberty for Some* by Scott Christianson. We continue to seek self-help books to distribute that are of interest to prisoners, and encourage book ideas and submissions from qualified authors.

In 2020 we plan to expend additional efforts and resources to expand HRDC's social media footprint and impact to ensure wider distribution of HRDC content and advocacy materials.

Other ongoing goals include building HRDC's organizational capacity, expanding our funding sources and fundraising, increasing the number of *PLN* and *CLN* subscribers, and – as always – continuing to advocate for criminal justice reform and prisoners' rights. The work HRDC can do has always been constrained by the resources available and we have always leveraged and maximized the outcome of all available resources.



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www.humanrightsdefensecenter.org

www.prisonlegalnews.org

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www.prisonphonejustice.org

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www.prisonecology.org

www.privateprisonnews.org

www.wronglyconvicted.org