



# HUMAN RIGHTS DEFENSE CENTER

## 2010 ANNUAL REPORT

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### CONTENTS

NOTABLE DEVELOPMENTS	1
PLN, THE MAGAZINE	1
BOOK DISTRIBUTION	
BOOK SALES	2
BOOK PUBLISHING	3
PLN AND HRDC WEBSITES	3
HRDC STAFF	4
HRDC BOARD OF DIRECTORS	4
ADVOCACY WORK	5
MEDIA COVERAGE	7
LITIGATION	
NEW CASES FILED IN 2010	11
CASES RESOLVED IN 2010	11
PRIOR CASES STILL PENDING IN 2010	13
AMICUS BRIEFS	16
OTHER ACTIVITIES	
PRISON PHONE PROJECT	16
LOOKING FORWARD: GOALS FOR 2011	16

## Notable Developments

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The Human Rights Defense Center (HRDC), a non-profit 501(c)(3) organization, is the parent organization of Prison Legal News. PLN continues to operate as a publishing project of HRDC.

In April 2010, HRDC closed its office in Seattle and consolidated all editorial and business operations in Brattleboro, Vermont. HRDC's new office space is conveniently located above a branch of the local post office and is the site for all business operations and staff except for associate editor Alex Friedmann, who works and resides in Nashville, Tennessee.

HRDC hired attorney Lance Weber as general counsel in 2010. Lance represents HRDC in our censorship and public records litigation, and also provides representation to victims of selected catastrophic injury cases involving prisons and jails.

HRDC received much-appreciated grants from the Open Society Institute, Sonya Staff Foundation and the Stern Foundation in 2010.

## PLN, The Magazine

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2010 was a landmark year for Prison Legal News. In May, PLN celebrated its 20th anniversary, continuing its distinction of being the longest-running independent magazine produced by current and former prisoners that covers criminal justice-related issues. PLN published cover stories on the following topics in 2010:

- The inhumane conditions of confinement and lack of basic health care in Michigan's prison system
- The under-reported spread of infectious but treatable and avoidable diseases such as HIV/AIDS, hepatitis C, MRSA and tuberculosis in U.S. prisons
- An examination of the Prison Industries Enhancement (PIE) program
- Problems with food in prisons and jails nationwide, including the deleterious effects of privatized food services
- The widespread damaging consequences that criminal informants have on both innocent people and the legal system
- The two-tiered system of justice in the U.S. – one for celebrities, the wealthy and the politically connected, and one for everyone else
- The costly effects of overcrowding in California's prison system and the prisoner deaths that result due to inadequate medical care
- Sexual misconduct by chaplains in U.S. prisons and jails

- The widespread use of junk science and questionable forensics testing to secure criminal convictions
- The involvement of private prison companies in Arizona's recently-enacted, controversial anti-immigration law
- The growing number of elderly prisoners, and the impact of "tough on crime" policies on the graying of the U.S. prison population
- Inadequacies in and lack of oversight of medical examiners' offices

PLN remains the only national criminal justice publication with a general, non-academic readership that provides in-depth coverage of complex justice-related topics.

PLN magazine subscription sales increased in 2010 to nearly \$95,000. Advertising sales increased to almost \$105,000, allowing PLN to continue publishing 56-page issues for a second full year. PLN works hard to maintain first-rate advertisers that offer quality services and support to prisoners.

PLN distributed approximately 40,000 free sample issues to prisoners in 2010. Additionally, we distributed *PLN* at various conferences and events. PLN had around 7,000 paid subscribers as of the end of 2010, including subscribers in all 50 states; approximately 70% of our magazine subscribers are incarcerated. Our print readership is around 80,000, based on reader surveys that indicate 12-14 people read each copy of *PLN*.

PLN received around 1,000 pieces of mail per week throughout 2010. The vast 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.

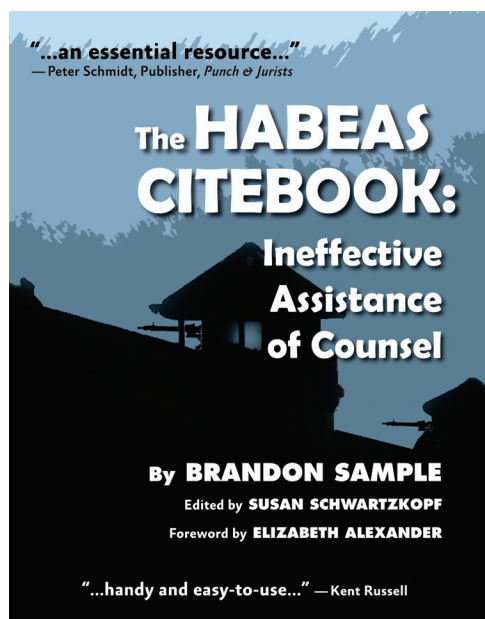
## **Book Distribution**

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### **BOOK SALES**

HRDC's book sales increased during 2010 to approximately \$90,000. HRDC continues to offer a multitude of books useful to prisoners, including hard-to-find titles concerning the criminal justice system and self-help legal resources designed to assist prisoners who are litigating their own cases.

One new addition to the books that PLN distributes is the long-awaited 4th edition of the *Prisoners' Self-Help Litigation Manual* by attorney John Boston and former HRDC general counsel Dan Manville. *PSHLM* is an indispensable guide for prisoners and their advocates who seek to understand the rights guaranteed to prisoners under the law and how to protect those rights. It is often called the "Bible" for jailhouse lawyers.



## BOOK PUBLISHING

HRDC published its second book in 2010, *The Habeas Citebook: Ineffective Assistance of Counsel*, authored by PLN contributing writer Brandon Sample and edited by Susan Schwartzkopf, PLN's advertising and outreach coordinator. *The Habeas Citebook* is a user-friendly guide designed to help pro se prisoner litigants identify and raise viable claims for potential habeas corpus relief. With an initial print run of 5,000 copies, the book is in high demand and has generated extensive praise both from prisoners and the legal community.

Our first book, *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada, 3rd Edition*, by Jon Marc Taylor, is selling well and is in high demand with many prison systems ordering the book for

all of their prison libraries. It remains the only book on the market offering incarcerated students information on what courses are available via correspondence.

PLN seeks to publish quality non-fiction reference books that will provide prisoners and their advocates with reliable, timely and accurate information they can use to educate themselves. We offer the highest author royalties in the publishing business: 10% of the sales price of each book sold. Our goal is to publish 1-2 new titles each year.

## PLN and HRDC Websites

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During the past year we further developed and expanded PLN's website by significantly increasing its content and usability. The website is a continuing work in progress as we strive to improve the user interface, search functionality and other features. PLN's website ([www.prisonlegalnews.org](http://www.prisonlegalnews.org)) still receives over 100,000 visitors per month and has become a significant resource for media and community outreach and education. Our site has the largest online content related to prison and jail issues. In Google searches for the word "prison," our site usually scores in the top 25. For the combined search terms "prison" and "legal" it is the first Google result.

PLN's website currently has over 25,000 news articles and 11,000 court rulings in its searchable database. The publications section has almost 4,000 reports, audits and other documents related to criminal justice issues, and the brief bank contains almost 5,700 assorted legal pleadings – including complaints, motions, appellate briefs, verdicts, judgments and settlements in prison and jail-related cases.

We are also developing an HRDC website, [www.humanrightsdefensecenter.org](http://www.humanrightsdefensecenter.org). The initial site is up and running but it has not yet been populated with content.

## HRDC Staff

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HRDC's full-time staff members during 2010 included Paul Wright, executive director and editor; Alex Friedmann, associate editor; and Susan Schwartzkopf, advertising and outreach coordinator. Also part of PLN's team in 2010 were Melissa Motel, editorial assistant, and Zach Philips, law clerk. Lance Weber joined HRDC as general counsel in September 2010. Dennis Curran also joined PLN in September as our office manager.

## HRDC Board of Directors

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**Dan Axtell** – Dan 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 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 private prisons.

**Sheila Rule** – Sheila 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. 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.

**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 and journalism ethics and diversity.

**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 of the College since that time.

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

**Rollin Wright** – Rollin Wright is *PLN*'s publisher emeritus.

## Advocacy Work

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Throughout 2010 HRDC continued its long-standing practice of advocating for prisoners' rights and criminal justice reform through attending and speaking at conferences and other events, as well as working in collaboration with other organizations. HRDC staff are frequently contacted by media seeking comments, contacts or other information on criminal justice topics. HRDC's advocacy work in 2010 included the following:

- *PLN* associate editor Alex Friedmann spoke at a Congressional briefing in Washington, DC on January 25, 2010 concerning HR 2450, the Private Prison Information Act of 2009. He was joined by *PLN* board member Judy Greene; Tom Barry, a senior analyst with the Center for International Policy; David Shapiro, staff attorney for the ACLU's National Prison Project; and Joshua Miller with AFSCME. The briefing was arranged by Rep. Sheila Jackson-Lee, who sponsored HR 2450. A segment from the briefing was shown on Dan Rather Reports on HDNet on February 16, 2010.
- In February 2010, Alex Friedmann chaired a committee for National CURE (Citizens United for the Rehabilitation of Errants), which developed a one-page summary for the Universal Periodic Review of the Obligations of the United States under three UN treaties – the International Covenant on Civil and Political Rights, the Convention Against Torture and the Universal Declaration of Human Rights – as those documents relate to prison privatization.
- In March 2010, *PLN* joined the Raising the Bar for Justice and Safety Coalition ([www.raisingthebarcoalition.org](http://www.raisingthebarcoalition.org)), to urge the U.S. Attorney General's office to adopt proposed standards for the Prison Rape Elimination Act (PREA). On May 3, 2010, HRDC submitted formal comments to the U.S. Department of Justice regarding the proposed PREA standards.

- In March 2010, Alex Friedmann assisted a Nashville-based watchdog group, Tennesseans for Improving Public Accountability ([www.tipatn.org](http://www.tipatn.org)), in drafting a report that detailed contract violations at a local CCA-operated jail.
- On March 4, 2010, Paul Wright spoke at the 13th Annual Liman Public Interest Colloquium at Yale Law School about non-litigation strategies to protect and advance the human rights of prisoners in the United States.
- Alex Friedmann testified before the House Finance, Ways and Means Committee of the Tennessee legislature on March 16, 2010 in opposition to HB 969, which would make it more difficult for ex-prisoners to regain their voting rights by requiring them to either pay all of their court costs or prove they are indigent before being allowed to vote. Alex testified by invitation of Representative Larry Miller. Despite opposition by some lawmakers, the bill subsequently passed.
- On March 23, 2010, the Brattleboro Community Justice Center (BCJC) and Vermont Action for Political Prisoners sponsored a community event and film presentation of *Prison Town USA*. Mel Motel, PLN's former editorial assistant and former coordinator of the Restorative Reentry Program at BCJC, helped organize and sponsor the event.
- On April 12, 2010, HRDC signed on to a letter of support requesting full funding for the Second Chance Act in fiscal year 2011. The Second Chance Act is a common sense, evidence-based approach to reducing crime and improving public safety. The Act authorizes \$165 million for programs to improve coordination of reentry services and policies at the state, tribal and local levels, with the goal of providing assistance to released prisoners so as to reduce recidivism.
- On April 15, 2010, Alex Friedmann was interviewed for the National ACLU's disenfranchisement project regarding his voting rights case in Tennessee.
- PLN submitted formal comments to the Connecticut legislature on May 6, 2010 in opposition to HB 5404, which proposed to limit prisoners' access to certain public records. The bill later passed and was enacted into law.
- On May 14, 2010, Alex Friedmann, who owns a nominal amount of CCA stock, attended CCA's annual shareholders meeting in Nashville and questioned the board about the problem of CCA employees raping and sexually abusing prisoners. He also asked whether CCA had submitted comments to the U.S. Department of Justice concerning the proposed Prison Rape Elimination Act (PREA) standards, and was informed that CCA had not.
- Members of the Vermont student radio project interviewed Alex Friedmann and Paul Wright concerning the history of PLN and their work advocating for prisoners' rights on June 8, 2010.

- On June 20, 2010, Paul Wright gave a panel presentation at the Allied Media Conference in Detroit, Michigan on prison telephone issues, and discussed the use of online platforms for human and prisoners' rights organizing. Ryan Barrett and Zach Phillips attended the conference as HRDC staff and participated in the Thousand Kites media interview project ([www.thousandkites.org](http://www.thousandkites.org)).
- On August 9, 2010, PLN signed on to an open letter to President Obama opposing the merger of the federal immigration enforcement system with state criminal justice systems. The letter was submitted on September 29, 2010.
- On September 23, 2010, Paul Wright gave a presentation on prisoners' rights at the National Police Accountability Project's Continuing Legal Education seminar held in New Orleans during the National Lawyers Guild's convention.
- In November 2010, a coalition of groups that included HRDC, the Alliance for Justice, the National Lawyers Guild, Detention Watch Network, Grassroots Leadership, International CURE, Justice Policy Institute, Public Citizen and the Private Corrections Working Group opposed President Obama's nomination of Stacia Hylton for director of the U.S. Marshals Service due to her close ties to the private prison industry and her work as a paid consultant for private prison firm GEO Group. Despite the opposition campaign, which was coordinated by PLN associate editor Alex Friedmann, Hylton's nomination was confirmed by the Senate on December 22, 2010.

## Media Coverage

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HRDC continued to make the news in 2010, including articles that mentioned PLN or quoted PLN staff. This media coverage included daily newspapers, magazines and radio shows, and PLN editor Paul Wright appeared on Anderson Cooper's "AC360°" on CNN. Further, HRDC issued 11 press releases in 2010. The following compilation of media coverage does not include articles about HRDC's litigation:

- Paul Wright was quoted in a January 25, 2010 Associated Press article about proposed legislation that would restrict Connecticut prisoners from seeking information about guards under that state's Freedom of Information statute.
- On January 30, 2010, Paul Wright was quoted in an Austin American-Statesman article concerning censorship in the Texas Dept. of Criminal Justice, which noted that prison officials were banning books that many would consider classics.



- PLN was mentioned in a January 2010 article by Beau Hodai published in *Extra!*, a publication of Fairness & Accuracy in Reporting. The article profiled Charles L. Overby, who is both the CEO of the Freedom Forum and a board member of Corrections Corporation of America (CCA). PLN board member Peter Sussman, co-author of the Society of Professional Journalists' Code of Ethics and a member of the SPJ Ethics Committee, was quoted in the article.
- Paul Wright was quoted in a February 25, 2010 CNN article about Tommy Silverstein, who has spent the longest time in solitary confinement of any federal prisoner, having served 27 years in solitary.
- PLN was cited as a source of information about MRSA infections in jails in a March 1, 2010 editorial in Kentucky's *Times Tribune*.
- PLN associate editor Alex Friedmann was mentioned in a Tennessean article on March 17, 2010 regarding a report released by a watchdog group, Tennesseans for Improving Public Accountability, which criticized CCA for contract violations in operating a Nashville jail.
- PLN was mentioned briefly in a March 31, 2010 Orlando Sentinel article on the Florida Dept. of Corrections' (DOC) ban on prison pen pal services.
- In an April 15, 2010 Associated Press article, Paul Wright was quoted regarding the effects of cutting prison counseling programs due to budget problems. "The first thing they cut is education – they did that in the '90s," Wright said. "The next thing [was] food, and the only thing that's left is the treatment programs. It's the same story all over the place, and it's a really shortsighted thing."
- Paul Wright was quoted in an April 28, 2010 *City Pages* article about Minnesota State University professor Bill Lewinski, who uses faulty scientific data to defend police shootings.
- An April 28, 2010 article on change.org mentioned PLN in the context of prison journalism, noting that 95% of *PLN's* content is written by prisoners.
- On May 13, 2010, Paul Wright was quoted in an article in the *Austin American-Statesman* about book censorship in the Texas prison system. "Critics who decry prison censorship argue it amounts to an unconstitutional means of control. 'An ignorant prison populace is much easier to manage,' said Paul Wright, editor of Prison Legal News."
- *Bloomberg News* mentioned PLN associate editor Alex Friedmann in a May 14, 2010 article about CCA, following CCA's annual shareholders meeting.

- PLN was mentioned in an article in the *Washington Free Press* on May 31, 2010 about prison profiteering. The article was titled, “WA taxpayers pay a million to imprison a man who stole \$151.”
- Paul Wright was quoted in a July 20, 2010 *San Francisco Bay Guardian* article about censorship by California prison officials.
- The *Star-Ledger* in New Jersey quoted Paul Wright in a July 25, 2010 article on lawsuits filed by prisoners.
- Alex Friedmann was quoted in an August 1, 2010 *Truthout* article that discussed the growth of private prisons in relation to the industry’s increased involvement in the immigration detention market.
- On August 9, 2010, Paul Wright appeared on Anderson Cooper’s show on CNN, “AC360°,” to discuss the problems with private prisons in general and the then-recent escape of three prisoners from an MTC-operated facility in Arizona.
- PLN’s July 2010 cover story, “Celebrity Justice: Prison Lifestyles of the Rich and Famous,” which discussed our nation’s two-tier justice system and pay-to-stay jails, was profiled in a KALW News (California) article on September 17, 2010.
- A September 23, 2010 article in the Oregon-based *Inlander* mentioned PLN in connection with an Oregon jail’s policy of banning all mail except postcards.
- PLN was mentioned in the book, *Working for Justice, Families and Prison Reform*, by Carol Black, Ph.D., who teaches at Newberry College in South Carolina. *Working for Justice* was released in October 2010.
- Paul Wright was quoted in *La Opinion*, a Spanish-language publication, in an October 29, 2010 article regarding a controversial immigration law, SB 1070, enacted in Arizona.
- PLN’s third anthology, *Prison Profiteers*, edited by Paul Wright and Tara Herivel, was favorably reviewed in the Fall 2010 issue of *Contexts*, a quarterly magazine of the American Sociological Association.
- In November 2010, Paul Wright and Alex Friedmann were quoted in articles in the *Washington Times* regarding President Obama’s nomination of Stacia Hylton for director of the U.S. Marshals Service. “The massive conflicts of interest with Ms. Hylton having been employed by GEO Group typify the revolving door of corporate lobbyists and government employees that President Obama promised to end if elected,” said Wright.

- Paul Wright was quoted in an article on budget-induced prison lockdowns on Washington-based KOMO News on November 15, 2010. Eight Washington DOC prisons were locked down for one day for the purported purpose of saving money. When asked whether it would result in savings, Wright said, “That’s a publicity stunt. It’s their way of trying to scare the public and intimidate people.”
- On November 30, 2010, Paul Wright was interviewed by Steve West on radio station WKVT in Brattleboro, Vermont on the subject of prisons and mass incarceration.
- Alex Friedmann was quoted in a December 2, 2010 article by Boise, Idaho-based Fox 12 (KTRV-TV), regarding the release of surveillance video of the beating of a prisoner at the CCA-operated Idaho Correctional Center.
- On December 3, 2010, Paul Wright appeared on the Kendall Moore Show on radio station WVON in Chicago to discuss mass imprisonment.
- Paul Wright was quoted in a December 8, 2010 *Lewiston Morning Tribune* editorial about prison privatization in Idaho.

## Litigation

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HRDC provides co-counsel in all censorship and public records suits involving Prison Legal News. We are also now able to provide representation in selected catastrophic injury and wrongful death cases involving prisons and jails. Due to our limited resources we have a very small docket; however, it is national in scope and HRDC litigation has a public education and media component that furthers our advocacy efforts in conjunction with our legal actions. Most of the complaints, settlements and orders referenced below are available on PLN’s website.

HRDC continues to be heavily involved in litigation, primarily due to censorship issues related to PLN the magazine and PLN book distribution efforts, as well as denials of our public records requests. PLN’s legal actions generated extensive media coverage in 2010, including articles in the *Houston Press*, *Press Herald*, *Nashville Post*, *Burlington Free Press*, *Daily Progress*, *USA Today*, *Westword* (Colorado), *Nashville Business Journal*, *Knoxville News Sentinel*, *Atlanta Journal-Constitution*, *Hartford Courant*, *Associated Press*, *Tennessean*, *Daily Journal* and *Seattle Weekly*.

HRDC general counsel Lance Weber has been co-counsel in all of our cases filed in 2010. PLN’s 2010 litigation docket included the following cases:

**NEW CASES FILED IN 2010**

**Tennessee Jail Death Suit:** On May 23, 2010, HRDC and Nashville-based co-counsel David Randolph Smith filed suit on behalf of the estate of Roy Glenn Hall, Jr., a 52-year-old prisoner who died due to medical neglect while confined at a jail in Davidson County, Tennessee in 2009. Among the parties named in the suit are Correct Care Solutions, a private medical contractor, and the Davidson County Sheriff's Office. The case is *Mathes v. Metropolitan Government of Nashville and Davidson County*.

**Galveston County Jail Censorship Suit:** On June 28, 2010, Prison Legal News sued the Galveston County jail in Texas over its policy of banning books, magazines and newspapers. PLN is represented by Scott Medlock, Lauren Izzo and Jim Harrington of the Texas Civil Rights Project, as well as HRDC counsel general Lance Weber. The case, filed in federal court, is *Prison Legal News v. Poor*.

**PHS Vermont Public Records Case:** On August 26, 2010, PLN filed suit in Washington County Superior Court in Vermont, under that state's public records statute, seeking litigation information and records from Prison Health Services – a private medical care contractor implicated in the deaths of several Vermont prisoners. PLN is represented by the Vermont ACLU. The case is *Prison Legal News v. Prison Health Services*.

**Berkeley County Jail Censorship Suit:** On October 6, 2010, PLN sued the Berkeley County Jail in Moncks Corner, South Carolina, challenging the jail's policy of barring prisoners from receiving any reading material except the Bible. PLN is represented by the ACLU of South Carolina, the ACLU National Prison Project and HRDC general counsel Lance Weber. This case has generated extensive media coverage. The case is *Prison Legal News v. DeWitt*.

**CASES RESOLVED IN 2010**

**Fulton County Jail Publication Ban Suit:** On October 22, 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 the jail to deliver PLN subscriptions and book orders. On July 13, 2009, the district court denied the county's motion to dismiss. Fulton County agreed to settle the case on April 22, 2010 by changing the jail's policy banning magazines and paying \$30,000 in damages plus almost \$120,000 in attorney fees and costs. PLN was represented by Atlanta attorneys Brian Spears and Gerry Weber. The case was *PLN v. Freeman*.

**GEO Group Public Records Case:** PLN filed suit in state court in Florida in December 2005, seeking details about the amount of money that GEO Group (formerly Wackenhut Corrections) had paid out in litigation related to its operation of private prisons in Florida. The court granted three motions to compel against GEO Group. GEO eventually produced the requested records in late 2009, but the case remained pending final resolution. On May 13, 2010, PLN announced that GEO had settled the case by producing all of the requested records and paying \$40,000 in attorney fees. PLN was represented by attorney Frank Kreidler. The case was *PLN v. GEO Group, Inc.*

**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. The jail agreed to settle the case on May 18, 2010 by changing its policies to allow prisoners to receive books and magazines, and paying \$10,000 in damages plus \$30,418 in attorney fees and costs. PLN was represented by New Orleans attorneys Mary Howell and Elizabeth Cumming. The case was *PLN and HRDC v. Stephens.*

**WA DOC Public Records Case:** After PLN filed a public records request with the Washington Department of Corrections, seeking records related to disciplinary action taken against certain prison employees, DOC sex offender treatment specialist Urszula Gaweda filed suit in Snohomish County Superior Court seeking to enjoin the DOC from releasing information concerning her disciplinary record to PLN. Gaweda had been fired in 2006 for making improper entries in sex offenders' files, then failing to correct the errors. She was reinstated in 2007 and received back pay following arbitration. PLN intervened in her lawsuit, and on May 28, 2010 the court ordered the DOC to produce the requested records. Gaweda was subsequently ordered to pay PLN's legal costs of \$2,000. PLN was represented by Hank Balson with the Public Interest Law Group, PLLC. The case was *Gaweda v. Washington State Dept. of Corrections and PLN.*

**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. On June 7, 2010, CCA settled the case by changing its mail policies and agreeing to pay \$70,000 in attorney fees, costs and damages. PLN was represented by Dan Pochoda, Legal Director of the ACLU of Arizona, and the law firm of Rosen, Bien and Galvan LLP. The case was *PLN v. CCA.*

**San Francisco Public Records Case:** On August 20, 2009, PLN sued the City and County of San Francisco after submitting requests for public documents related to litigation involving the San Francisco jail. Although a partial spreadsheet of cases was produced, the requested records were

not. The lawsuit was filed after the City Attorney's office failed to respond to PLN's follow-up letters. The case settled on September 2, 2010 after the City of San Francisco produced all of the requested records and agreed to pay \$24,900 in PLN's attorney fees. PLN was represented by the law firm of Rosen, Bien and Galvan LLP. The case was *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 alleged 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. On September 23, 2010, PLN and the Virginia DOC settled the case for extensive injunctive relief plus \$125,000 in damages, attorney fees and costs. PLN was represented by Charlottesville attorneys Jeffrey E. Fogel and Steven D. Rosenfield, and HRDC counsel Lance Weber. The case was *PLN v. Johnson*.

**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 litigation payouts by the state's adult and juvenile prison systems over a multi-year period. The CDCR provided some of the requested records; on December 23, 2009, the court ordered the Department to produce all responsive records to PLN. The CDCR agreed to settle the case on September 30, 2010 by producing all of the records and paying \$155,000 in attorney fees and costs. PLN was represented by the law firm of Rosen, Bien and Galvan LLP. The case was *PLN v. Tilton*.

**Jail Suicide Case:** In October 2010, HRDC general counsel Lance Weber settled a wrongful death case involving a prisoner who committed suicide while housed at a county jail operated by a for-profit, private corrections company. The case settled pre-litigation and the terms of the settlement were confidential.

#### **PRIOR CASES STILL PENDING IN 2010**

**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 no notice of such censorship was provided by the TDCJ. On December 17, 2009, the court denied the defendants' 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 and HRDC general counsel Lance Weber. The case is *PLN v. Livingston*.

**Pennsylvania DOC Public Records Case:** On May 13, 2009, PLN filed a petition in the Commonwealth Court of Pennsylvania under the state's right-to-know law (RTKL), 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 Corrections. 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. On April 8, 2010, the Commonwealth Court issued a ruling in favor of PLN, in one of the first decisions on the state's RTKL. The case was remanded for further proceedings. 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 for free. 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. The Superior Court ruled in favor of the city. PLN has appealed the case to Connecticut's Supreme Court, where it remains pending. PLN was represented in Superior Court by attorney Brett Dignam at Yale Law School and law students Megan Quattlebaum and Robyn Gallagher. PLN is represented on appeal by Bridgeport, Connecticut attorney Sean McElligott and HRDC general counsel Lance Weber. 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*.

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

**District of Columbia Public Records Case:** In June 2008, PLN filed a public records lawsuit against the District of Columbia, seeking information concerning 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 doing so is 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 complying by the end of 2010. The case remains pending; PLN is represented by the Partnership for Civil Justice. The case is *PLN v. District of Columbia*.

**Exec. Office for 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 Bureau of Prisons' video footage and photos of the murder of a prisoner at the U.S. Penitentiary in Florence, Colorado. The video and photos were shown in open court during the murder trials of the victim's assailants; however, the government refused to release them to PLN. On September 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 appealed to the Tenth Circuit, and numerous organizations joined an amicus brief on PLN's behalf – including *60 Minutes*, the Associated Press, *Westword*, the American Society of News Editors, the Association of Capitol Reporters and Editors, the Society of Professional Journalists and the ACLU of Colorado. PLN is represented by Boulder, Colorado attorney Gail K. Johnson. The case is *PLN v. EOUSA*.

**CCA Tennessee Public Records Case:** On May 19, 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, holding 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; in a revised ruling released on September 16, 2009 following a motion to rehear, the appellate court held that the records requested by PLN were subject to disclosure by CCA for all but one of the company's Tennessee facilities. Tennessee's Supreme Court denied review on March 1, 2010, and the case remains pending on remand. PLN is represented by Memphis attorney Andy Clarke with Borod & Kramer; the case is *Friedmann v. CCA*.

**California PLN Attorney Fee Award Case:** On June 9, 2010, the Ninth Circuit Court of Appeals issued a published opinion upholding the award of \$137,502.46 in attorney fees and costs in the monitoring phase of a censorship suit originally filed by PLN in 2006 against the California Department of Corrections and Rehabilitation. An amicus brief in support of PLN had been filed by Columbia Legal Services, Florida Justice Institute, Legal Aid Society, Massachusetts Correctional Legal Services, Inc., National Center for Youth Law, National Police Accountability Project, Prisoners' Legal Services of New York, Southern Poverty Law Center, Uptown People's Law Center and the Volunteer Lawyers' Project for the Southern District of Florida, represented by George Harris at Morrison & Foerster. The case was remanded to the district court and costs on appeal were assessed against the defendants. PLN is represented by the San Francisco law firm of Rosen, Bien and Galvan LLP. The case is *PLN v. Schwarzenegger*.



## AMICUS BRIEFS

On October 21, 2010, HRDC joined an amicus brief filed by the National Police Accountability Project in *Mattos v. Agarano* in the U.S. Court of Appeals for the Ninth Circuit, on behalf of plaintiffs who were Tasered by police officers.

On November 12, 2010, HRDC joined an amicus brief filed by the National Police Accountability Project in *Smith v. Almada* in the U.S. Court of Appeals for the Ninth Circuit, on behalf of the plaintiffs in a case that involved police officers who failed to disclose exculpatory evidence.

## Other Activities

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### PRISON PHONE PROJECT

In 2008, PLN received a grant from the Funding Exchange for the purpose of conducting a comprehensive study of prison phone services in the United States. The project extended into 2009 and, due to unforeseen delays, into 2010 (for example, in 2009 PLN had to file suit against the Mississippi DOC and its telephone provider, Global Tel\*Link, to obtain Mississippi's phone contract data).

By the end of 2010 almost all of the state-by-state data had been collected and PLN staff were in the process of evaluating the enormous amount of information that was obtained. The prison phone project is expected to be complete in early 2011.

## Looking Forward: Goals for 2011

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HRDC's goals for 2011 include completing the website for the Human Rights Defense Center; increasing the number of PLN's paid subscribers; escalating our anti-private prison project; developing a more effective PLN membership database and mailing list program; and securing additional grant funding so we can meet these goals.

In terms of book publishing, we are actively seeking interesting new titles to publish in 2011, and will strive to broaden our selection of self-help books for prisoners.

We are pleased with HRDC's progress during 2010 in terms of our media outreach, advocacy efforts, litigation and other projects. The PLN website continues to be a definitive source of news and research for prisoners' rights advocates, policy makers, academics, researchers, journalists, family members, attorneys and other people involved in criminal justice and corrections-related issues.

We would like to expand the scope of our coverage by developing an online presence on the issues of police, prosecutorial and judicial misconduct, where all such news stories could be aggregated in one location. This would complement PLN's coverage of prisons and jails, and offer a complete overview of news, trends, corruption and abuse within the criminal justice system from

beginning to end. We are also interested in developing multimedia capability and expanding our staff so we can produce and disseminate multimedia content across diverse platforms.

Other projects for which HRDC seeks funding include a project documenting the negative impact of mass incarceration on the environment; interviews with well-known Americans regarding their views on our justice system; and increasing our investigative reporting on criminal justice issues of national importance.

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 paid magazine subscribers and advertisers, and identify and develop individual donors.

Due to the economic crisis in the U.S. since 2008, we have seen a number of states make dramatic departures from their typical "lock 'em up" criminal justice strategy – including prison closures, early release programs and changes in parole policies. This is a time of strategic opportunity to advocate for significant change in our justice system. Now more than ever, HRDC needs to capitalize on this trend by informing the public and policymakers about problems in our criminal justice system through our news reporting, media coverage, advocacy, litigation and partnerships with allied organizations.