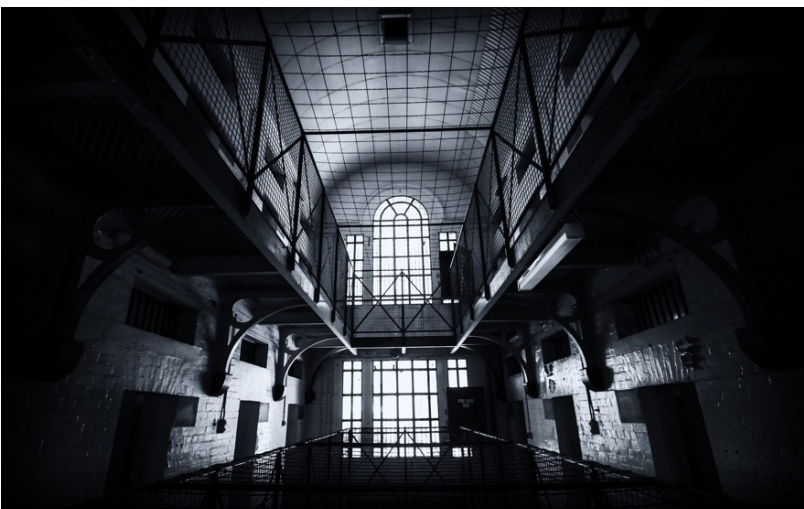


# HUMAN RIGHTS DEFENSE CENTER

## 2021 ANNUAL REPORT



As you read the summaries of HRDC's work below, please know that much of this work was made possible because of the thousands of hours of pro bono legal representation from our partners and generous gifts from our supporters, donors who are often prisoners or their families. You inspire us! Thank you so much.

In addition to our traditional news coverage over the last several years, we have stretched our limited resources to ensure timely and accurate reporting on Covid for prisoners. This has included the legal and political developments surrounding the pandemic which has been an editorial priority for both *Prison Legal News* and *Criminal Legal News*. But publishing magazines that cannot reach their audience due to censorship by prison and officials is futile, which is why our legal team works hard to ensure our books and magazines are received by subscribers. If you read *PLN* and *CLN* during the Covid pandemic, you saw the importance of the information provided to prisoners and their families. Yet officials kept trying to prevent prisoners from reading this life-saving information. No other publisher in America consistently stands up for the rights of prisoners to receive information and for publishers to communicate with them like HRDC does.

Unlike many organizations, criminal justice reform and advocacy on behalf of prisoners is our exclusive focus. For over 32 years we have had no agenda other than advocating for the human rights of everyone harmed by the American police state, whether in or out of prison. From day one we have fought for felon voting rights, an end to prison slavery, affordable and accessible communications, the abolition of control units and solitary confinement. For over three decades our principled and steadfast advocacy has been reflected by the unrelenting hostility of officials across the country who have spent millions of dollars trying to censor our publications and prevent prisoners from receiving our communications—but in nearly every case they fail, because HRDC does not back down. Thank you for standing with us.

## 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's contributing writers are all current or former prisoners, including Kevin Bliss, Dale Chappell, Matt Clarke, Derek Gilna, Gary Hunter, Ed Lyon, David Reutter, Mark Wilson, and Christopher Zoukis. PLN published the following cover stories in 2021:



- January:** In “Tougher Than the Rest: No Criminal Justice Reform “Miracle” in Texas,” by Marie Gottschalk detailed how Texas has not been a model of criminal justice reform because the 2007 legislation did not significantly reduce the number of incarcerated people, and because official figures from the Texas Department of Criminal Justice undercount the number of people confined to state prisons.
- February:** Originally published in *ProPublica*, “The Way Prisoners Flag Guard Abuse, Inadequate Health Care and Unsanitary Conditions Is Broken,” by Shannon Heffernan
- March:** Originally published in *ProPublica*, “Inside Trump and Barr’s Last-Minute Killing Spree,” by Isaac Arnsdorf

- **April:** “Jail Suicides in Massachusetts Point to National Crisis: Challenging Legislatures to Say Not One More,” by Jennifer Honig discusses the stress and conditions that heighten prisoners’ risk of suicide compared to the general population.
- **May:** “The Punishment Economy: Winners and Losers in the Business of Mass Incarceration,” by Daniel A. Rosen provides details into how the system has reached a point where profits from prisoner incarceration exceed the need to make criminal justice reforms.
- **June:** “The 10 Worst Sheriffs in America,” by Nicole Audrey Spector
- **July:** “The Contraband Wars: Prison authorities target books and mail, miss the goods coming through the staff door,” by Christopher Zoukis. Administrators argue that restrictions on prisoners’ interactions with the outside world are necessary to stem the tide of incoming contraband, but they are ignoring a significant source of illegal goods inside American jails and prisons: guards and staff.
- **August:** “25 Years of the Prison Litigation Reform Act,” by John Boston
- **September:** Originally published in *BuzzFeed News*, “Louisiana Bars Problem Doctors from Practicing Medicine in Most Hospitals. So They Treat Incarcerated People Instead.” by Addy Baird
- **October:** “PREA: Tackling the Nightmare of Prison Rape,” by David Reutter. While the changes and reforms in prisons look great from a distance, they are not having an effect inside prisons. The reporting requirement of PREA has heightened awareness of prison rape, but is doing little to stop it.
- **November:** “Wrongfully Convicted Man Freed for Murder of Oregon DOC Director, But State Wants Him Back In Prison,” by Mark Wilson
- **December:** “Environmental Indifference: Exposure to Radon in Prisons May Be Functioning as a Form of Mass Capital Punishment,” by Anthony Moffa

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 2021, 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.

## 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 fourth full year of publication in 2021, and published the following cover stories:



- **January:** Originally published in *Mother Jones*, “The Infuriating History of Why Police Unions Have So Much Power,” by Samantha Michaels
- **February:** “Staggering Injustice: Experts Say Cross-Racial Eyewitness Identification Errors Are Widespread and Contribute to Thousands of Wrongful Convictions,” by Derek Gilna
- **March:** Originally published by the *Cato Institute*, “Qualified Immunity - A Legal, Practical, and Moral Failure,” by Jay Schweikert
- **April:** “Faulty Forensics and Wrongful Convictions,” by Matt Clarke
- **May:** “No-Knock Warrants Leave Trail of Terror, Property Damage, and Deaths,” by David Reutter
- **June:** “Felony Murder: The Crotchet of American Murder Jurisprudence,” by Douglas Ankney
- **July:** “Deliberately Convicting the Innocent: Exonerations Expose the Criminal Justice System’s Callous Indifference Toward Official Misconduct” by Douglas Ankney
- **August:** “Reevaluating Capital Punishment and Psychosis: How Sane Must We Be to Qualify for Execution?” by Michael Fortino, Ph.D.
- **September:** “Trial Penalty: The Harm in Coercive Prosecutorial Tactics and Plea Bargains,” by David Reutter
- **October:** “The Clash Between Closed-Source Forensic Tools and the Confrontation Clause,” by Anthony Accurso
- **November:** “The Real Minority Report Predictive Policing Algorithms Reflect Racial Bias Present in Corrupted Historic Databases,” by Matt Clarke
- **December:** Originally published in *the Intercept*, “ShadowDragon: Inside the Social Media Surveillance Software That Can Watch Your Every Move,” by Michael Kwet

## BOOK DISTRIBUTION

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### 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 6,000 books in 2021, including over 1,000 sent at no cost to prisoners around the country.

### 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*; the *Habeas Citebook: Prosecutorial Misconduct*; and *The PLRA Handbook: Law and Practice Under the Prison Litigation Reform Act* by John Boston.

PLN Publishing began work on two new book projects in 2021 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* and the 3rd edition of the *The Habeas Citebook: Ineffective Assistance of Counsel*.

### HRDC WEBSITES

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We continued to expand HRDC's online presence in 2021 by increasing our content, including articles, court pleadings and publications. PLN's website ([www.prisonlegalnews.org](http://www.prisonlegalnews.org)) receives over 550,000 visitors each month and is a significant resource for media and community out-reach and public education on criminal justice-related issues. CLN separately receives over 170,000 visitors each month.

At the end of 2021, PLN's site had over 30,000 articles and 20,000 cases in its searchable database. The publications section had more than 7,800 reports, audits and other documents, while our brief bank contained over 12,000 legal pleadings – including complaints, motions, briefs, verdicts, judgments and settlements. Some content was shared with CLN's website, [www.criminallegalnews.org](http://www.criminallegalnews.org).

HRDC also maintains an organizational site, [www.humanrightsdefensecenter.org](http://www.humanrightsdefensecenter.org), as well as separate websites for our various projects, including [www.stopprisonprofiteering.org](http://www.stopprisonprofiteering.org), [www.prisonphonejustice.org](http://www.prisonphonejustice.org), [www.prisonecology.org](http://www.prisonecology.org), [www.privateprisonnews.org](http://www.privateprisonnews.org), and [www.wronglyconvicted.org](http://www.wronglyconvicted.org).

### HRDC BOARD OF DIRECTORS

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**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** (Secretary) – 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.

**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 2021

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In 2021, 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, 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

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HRDC staff engaged in a number of activism and advocacy efforts in 2021 aimed 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. Due to coronavirus, there were no physical conferences or events related to criminal justice reform; the ones that did take place were conducted online.

Those efforts included:

- Numerous television and radio interviews nationally and internationally around criminal justice issues.
- Engagement with the Consumer Financial Protection Bureau (CFPB) around abusive practices by financial institutions that exploit prisoners and their families and seeking the end and regulation of these practices.
- Virtual events and speaking engagements included speaking to college classes around the country on criminal justice issues in general and coronavirus impacts on prison and jail populations in particular.

## MEDIA OUTREACH

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HRDC's efforts to educate, advocate and litigate around prisoners' rights continued to receive national and international media attention in 2021. 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 2021. The following is a partial list of the media coverage that HRDC, Prison Legal News and

Criminal Legal News received in 2021, excluding articles about our litigation. Links to these articles and many others are on our website under "In the News."

- HRDC's work against the exploitive practices of the private prison phone contractor Securus is discussed in the February 4, 2021 article in *Detroit Free Press*.
- Prison Legal News mentioned in the article about censorship in the program on kjzz.org's February 11, 2021 radio show.
- HRDC's Florida FOIA litigation covered by the *VT Digger* on March 22, 2021.
- On March 29, 2021, Paul Wright spoke on the Brian Lehrer Show panel with regards to who is profiting from the prison system.
- HRDC's work to stop materials being censored in prison mentioned in March 30, 2021 *Florida Politics* article about banned books.
- On April 28, 2021 HRDC related a press release detailing their legal efforts to force the release of half a billion dollar in misconduct settlement records.
- *The Crime Report* referenced the work of HRDC in their article about curbing prison phone cost on May 4, 2021.
- Prison Legal News is quoted in an *Inside Higher Ed* article about prison labor on May 4, 2021.
- In the June 9, 2021 *Patch.com*, Prison Legal News' coverage is cited in the discussion around elder parole practices.
- *Gilmer Mirror* details HRDC's litigation to end the postcard only policy at Arkansas prisons on June 23, 2021.
- HRDC publishes a press release detailing their litigation efforts against censorship of *Prison Legal News* in the Lincoln County, Wisconsin on July 19, 2021.
- On August 10, 2021, HRDC's releases a statement with regards to their litigation against the censorship of their books and magazines in the Florida prisons.
- Paul Wright is quoted in the *Boston Globe* article about secrecy and the violence committed against prisoners in Massachusetts's maximum-security prison on August 14, 2021.
- *Creative Loafing Tampa* discuss the censorship of HRDC's magazines in the Florida Prison System on August 18, 2021.
- HRDC's press release on their win in the release of records by private prison contractor, Wellpath, on September 3, 2021.
- *Seven Days Vermont* covers HRDC's FOIA litigation against Correct Care Solutions' medical services in Vermont on September 7, 2021.
- *Wink News* covers HRDC's litigation in case for wrongfully convicted Tampa man on October 10, 2021.



- On November 11, 2021, HRDC's new coverage was cited by *Baltimore Sun* as part of an article on reinventing prison education programs.
- HRDC's Litigation against NC prison's censorship policy reported on in the *News Observer* on November 17, 2021.
- Paul Wright was quoted in a *Los Angeles Times* article about White supremacist guards in Florida on November 19, 2021.
- HRDC's prison phone cost advocacy efforts discussed in the November 30, 2021 *Washington Post* article.
- On December 12, 2021, *Prison Legal News'* coverage is cited in article about how contraband cell phones are getting into prisons.
- *Prison Legal News* cited in December 13, 2021 article in Capitol Weekly about private prison firms making money off the California prison system.
- *Newsweek* covered HRDC's censorship litigation against Idaho Jail on December 23, 2021.
- *Santa Fe New Mexican* details HRDC's settlement in the New Mexico FOIA litigation for records related to prisoners treated by a private prison contractor, Centurion on December 26, 2021.

## Litigation Project

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In 2021 we thankfully got back to pre-pandemic status and functionality. While the challenges of 2020 didn't slow us down, it did make everything more difficult to navigate and 2021 continued to be a year of getting caught up and back to "normal." Thank you to all of you who subscribed, donated, and showed support for our work these trying times; you allowed us to provide thousands of free or reduced subscriptions to prisoners who were in dire need of the coverage of COVID provided by PLN.

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 continues to be led by General Counsel Daniel Marshall supported by the legal team of Staff Attorney, and Trine Fellow, Jesse Isom; Paralegal Kathy Moses; and Legal Assistant/Public Records Manager Tiffany Hollis and Steven Torres.

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*. For many of these cases we partner with local and co-counsel for which we are exceedingly grateful for their time and support.

### **I. FIRST AMENDMENT CENSORSHIP CASES**

Like 2020, HRDC continues to increase its reach and impact by expanding our First Amendment cases.

HRDC's First Amendment litigation seeks to protect the rights of prisoners and their correspondents to receive books, magazines, and 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 corrections 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 and supporting their access to material they need to advocate on their own behalf as well as for others.

### **A. New Cases Filed in 2021**

- 1. *Human Rights Defense Center v. Lincoln County, WI*** - County rejected HRDC's books and magazines based on policy that prevented prisoners from receiving publications; and didn't give HRDC due process notice. Co-Counsel: Brady Williamson at Godfrey & Khan.
- 2. *Human Rights Defense Center v. FL DOC, FL*** – Round 3; Florida DOC censoring HRDC's magazines & book purportedly due to advertisements. Co-Counsel: Michael McGinley, Eric Hageman, Shiram Harid at Dechert LLP
- 3. *Human Rights Defense Center v. NC Dept of Public Safety, NC*** – NCPPS rejecting HRDC's magazines due to content of its articles. Co-Counsel: Ari Meltzer, Kyle Gutierrez at Wiley Rein, Elizabeth Simpson at Emancipate NC.
- 4. *Human Rights Defense Center v. Canyon County, ID*** – County rejected HRDC's magazines and failed to give due process. Co-Counsel: Elijah Watkins, Jennifer Palmer, J.B. Evans at Stoel Rives.
- 5. *Human Rights Defense Center v. Mariposa Co. CA*** – County had a policy that led to rejection of HRDC's magazines and books at the jail and didn't send due process. Pre-suit settlement included policy change and fees. No Co-Counsel.

### **B. Cases Still Pending in 2021:**

- 1. *Human Rights Defense Center v. Union County, AR*** – In 2017 HRDC filed a lawsuit challenging a postcard-only policy at the jail in Union County, Arkansas. Proceedings in this case were stayed pending the outcome of the appeal in the Baxter County case through 2020. This year the stay was lifted and parties are preparing Motion for Summary Judgement briefs. HRDC is represented by General Counsel Daniel Marshall; by local counsel Paul J. James with James, Carter & Priebe, LLP; and by Bruce E.H. Johnson with Davis Wright Tremaine, LLP.

2. ***Human Rights Defense Center v. Henderson County, KY*** – The case filed in 2020 against Henderson County, KY to ensure delivery of HRDC’s publications and mail at that jail. At the start of 2021 the parties were conducting discovery to determine the extent of the jail’s censorship so that the Court could rule on HRDC’ motion for preliminary injunction. HRDC is represented by General Counsel Daniel Marshall, as well as attorneys Greg Belzley of Belzley, Bathurst & Bentley and Bruce E.H. Johnson of Davis Wright Tremaine, LLP.
3. ***Human Rights Defense Center v. Heidi Washington et al.*** (Michigan DOC) – In 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 also filed a motion for a preliminary injunction seeking to end the censorship of *Prison Legal News* while the case is pending. After discovery from 2020 Motion on Summary Judgement granted as to the First Amendment; parties preparing for trial on Fourteenth Amendment claim. HRDC is represented by General Counsel Daniel Marshall, 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.
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, the parties filed cross motions for summary judgment in 2020. Oral arguments were conducted in May of 2021 and parties are awaiting 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 2020. HRDC is represented by General Counsel Daniel Marshall; by attorneys Sanford Rosen, Lisa Ells, and Amy Xu with Rosen Bien Galvan & Grunfeld, LLP; and by David Bodney and Michael A. DiGiacomo with Ballard Spahr, LLP in Phoenix, Arizona.
5. ***Human Rights Defense Center v. Director John R. Baldwin*** (Illinois DOC) – In 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. At the end of 2020, the DOC has revised its mail policy, and the parties continued to seek a negotiated resolution which proved fruitless. HRDC filed an amended complaint and the case has moved into the discovery phase. . HRDC is represented by General Counsel Daniel Marshall, 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.
6. ***Human Rights Defense Center v. Baxter County, AR*** – In 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 At the end of 2021 HRDC was awaiting

a decision from the Court; and in 2021 the Eight Circuit Court of Appeals reversed and remanded in a victory. HRDC is represented by General Counsel Daniel Marshall; by Paul J. James with James, Carter & Priebe, LLP; and by Bruce E.H. Johnson and Caesar Kalinowski IV with Davis Wright Tremaine, LLP.

### C. Cases Resolved in 2021

1. ***Human Rights Defense Center v. Prince George's County, MD*** – In 2020, HRDC sued Prince George's County, MD over the extensive censorship of its publications, letters, and other mail without due process. The parties entered into settlement negotiations after briefing HRDC's motion for a preliminary injunction and the Defendants' motion to dismiss. Settlement finalized with HRDC publications accepted and fees awarded. HRDC was represented by General Counsel Daniel Marshall, as well as attorneys Ronald London and Courtney DeThomas with Davis Wright Tremaine, LLP.
2. ***Human Rights Defense Center v. Sherburne County, MN*** – In August, HRDC brought suit against Sherburne County, MN due to the censorship of its magazines and lack of accompanying due process. Although the Court denied HRDC's motion for a preliminary injunction, the case pressed forward. Following discovery in 2020 the case settled in 2021 with a change in policy and fees awarded. HRDC was represented by General Counsel Daniel Marshall, as well as attorneys R.J. Zayed, Alex Hontos, and Donna Reuter of the firm Dorsey & Whitney LLP in Minneapolis.
3. ***Human Rights Defense Center v. Adams County, CO*** – In 2020, HRDC sued Adams County, CO for the rejection of its magazines without due process by its jail. The Court indicated that HRDC was likely to prevail on its motion for a preliminary injunction, which impelled the defendants to enter into settlement negotiations which concluded in 2021 with a policy change and fees awarded. HRDC was represented by General Counsel Daniel Marshall, as well as attorneys Steven Zansberg and Matt Thornton of Ballard Spahr LLP.
4. ***Human Rights Defense Center v. Johnson County, KS*** – Also in 2020, HRDC filed suit against Johnson County, KS over First and Fourteenth Amendment violations. At the close of 2020 discovery was ongoing and led to a settlement in 2021 resulting in a policy change and fees awarded. HRDC was represented by General Counsel Daniel Marshall, as well as attorneys Maxwell Kautsch of Kautsch Law, LLC and Bruce E.H. Johnson of Davis Wright Tremaine, LLP.
5. ***Human Rights Defense Center v. Carter***. (Indiana DOC) – In 2020, HRDC sued the Indiana Department of Corrections and several of its personnel due to the rejection of HRDC's books and magazines at several prisons in that state. The case was settled resulting in a change in policy and fees awarded. HRDC was represented by General Counsel Daniel Marshall, as well as attorneys Richard Waples of Waples & Hanger, and attorneys Kenneth Schuler, Marc Zubick, Sarah Wang, Kirsten Lee, and Greer Gaddie of Latham & Watkins LLP in Chicago.

## II. PUBLIC RECORDS AND FOIA CASES

HRDC also litigates public records and Freedom of Information Act (FOIA) cases across the country related to prisons, jails, and other detention centers, seeking information on such issues as government

contracts with private companies engaged in correctional services, and settlements and verdicts in lawsuits involving corrections 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 2021

1. ***Human Rights Defense Center v. Cook County State Attorney's Office, IL*** – Verdict and Settlements request to Cook County. Defendant did not produce documents within statutory deadline. Co-Counsel Matt Topic, Merrick Wayne, Joshua Burday, Shelly Geiszler at Loevy & Lovey.
2. ***Human Rights Defense Center v. Kennebec County, ME*** – County failed to produce documents related to a lawsuit about mistreatment of a prisoner in the Kennebec County Correctional Facility. Co-Counsel Zach Heiden, Anahita Sotoohi at the ACLU of Maine.
3. ***Human Rights Defense Center v. County of Los Angeles, CA*** – LA County refused to produce Verdicts and Settlement documents. Co-Counsel Professor Susan Seager at UC Irvine School of Law.
4. ***Human Rights Defense Center v. Transportation Security Administration, VA*** – TSA failed to produce requested documents on Verdicts and Settlements. Co-Counsel, Deb Golden.
5. ***Human Rights Defense Center v. United States Secret Service, DC*** – Agency failed to produce Verdict and Settlement documents. Co-Counsel, Deb Golden.

### B. Cases Resolved in 2021

1. ***Human Rights Defense Center v. Armor Correctional Health Services, Inc.*** – In May HRDC filed suit in Florida state court against Armor Correctional Health Services for its refusal to provide documents concerning claims, verdicts, and settlements against Armor related to its provision of medical services at the Palm Beach County Jail. Armor filed a motion to dismiss, which was erroneously granted by the Court. At the end of 2020, HRDC's appeal was still waiting to be heard. In 2021 HRDC won the appeal and the case is to trial court HRDC was represented by General Counsel Daniel Marshall and attorney Sabarish Neelakanta of SPN Law.
2. ***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. After negotiations defendants turned over documents without redactions and paid fees. HRDC is represented by General Counsel Daniel Marshall, and by local counsel Laura Schauer Ives with Kennedy, Kennedy & Ives in Albuquerque.

### C. Cases Still Pending in 2021

1. ***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 some responsive records. The agency is still in the process of producing documents. HRDC is represented by General Counsel Daniel Marshall and by attorney Deb Golden of the Law Office of Deborah M. Golden PLLC.
2. ***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; however, the agency began producing documents when the Court indicated the motion would be denied and has continued to do so into 2021. At the end of the year WMATA was in the process of producing documents. HRDC is represented by General Counsel Daniel Marshall and by attorney Deb Golden of the Law Office of Deborah M. Golden PLLC.
3. ***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 2020 the year the defendant was in the process of producing records and continues to do so into 2021. HRDC is represented by General Counsel Daniel Marshall and by attorney Deb Golden of the Law Office of Deborah M. Golden PLLC.
4. ***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. Despite numerous legal maneuvers to avoid production, including petitions to the Supreme Court of Texas and the Attorney General's Office, GEO was ordered to produce the records and has produced most of the requested documents during 2021; however negotiations continue over documents from one specific case. HRDC is represented by General Counsel Daniel Marshall, and by Thomas Leatherbury and Michelle Arishita with the law firm of Vinson and Elkins.
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. Defendant filed a motion to dismiss, which was denied in 2020 and case settled in 2021 with disclosure of the records and payment of HRDC's attorney fees. HRDC is represented by General Counsel Daniel Marshall and attorney Sabarish Neelakanta of SPN Law.
6. ***Human Rights Defense Center v. Wellpath*** – HRDC's case against Wellpath in Vermont State Court continued with the Court ruling on the parties' cross-motions for summary judgment. HRDC is arguing to extend the state's functional equivalence test to private companies that provide health care to prisoners. Although the trial court granted summary judgment to Wellpath, HRDC's appeal was to the Vermont Supreme Court was successful

and Wellpath has begun producing documents. HRDC is represented by General Counsel Daniel Marshall and attorney Robert Appel.

- 7. *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. In 2020 ICE completed its production and HRDC was preparing to file a motion for summary judgment over a redaction issue. However, in 2021 redaction issue was resolved and the case was favorably settled. HRDC is represented by attorney Eric M. Stahl with Davis Wright Tremaine, LLP.
- 8. *Human Rights Defense Center v. Armor Correctional Health Services, Inc.*** – In May HRDC filed suit in Florida state court against Armor Correctional Health Services for its refusal to provide documents concerning claims, verdicts, and settlements against Armor related to its provision of medical services at the Palm Beach County Jail. Armor filed a motion to dismiss, which was erroneously granted by the Court. At the end of 2020, HRDC’s appeal was still waiting to be heard. In 2021 HRDC won the appeal and the case was sent back to the trial court. HRDC is represented by General Counsel Daniel Marshall and attorney Sabarish Neelakanta of SPN Law.
- 9. *Human Rights Defense Center v. Drug Enforcement Agency*** – Also in May, HRDC sued the U.S. Department of Justice and the Drug Enforcement Agency over its failure to respond to a FOIA request for documents related to lawsuits against the agency. The DEA began releasing documents almost immediately, although HRDC is still disputing many redactions. At year’s end the DEA was continuing periodic document productions. HRDC is represented by General Counsel Daniel Marshall and attorneys Caesar Kalinowski and Eric M. Stahl with Davis Wright Tremaine, LLP.
- 10. *Human Rights Defense Center v. GEO Group* and *Human Rights Defense Center v. Management & Training Corporation*** — In July HRDC filed two cases against private prison companies in New Mexico, GEO Group and MTC, due to their refusal to respond to public records requests. Both companies released the requested documents after the Court denied MTC’s motion to dismiss. At the end of the year the parties were in negotiations to resolve the cases. HRDC is represented by General Counsel Daniel Marshall and Staff Attorney Eric Taylor, as well as attorneys Mark Donatelli and K.C. Manierre of the firm Rothstein Donatelli.
- 11. *Human Rights Defense Center v. U.S. Dept. of Veteran’s Affairs*** — In September HRDC sued the Department of Veteran’s Affairs for its refusal to provide documents concerning claims, verdicts, and settlements against the agency. At the end of the year the defendant had agreed to produce records, and HRDC was awaiting the initial production. HRDC is represented by General Counsel Daniel Marshall and by attorney Deb Golden of the Law Office of Deborah M. Golden PLLC.

### **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 Still Pending in 2021**

1. ***Reichert v. Keefe Commissary Network, LLC*** –In 2021 the Ninth Circuit Court of Appeals denied the motion to compel arbitration and the case is back up on appeal

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. Mr. Reichert is represented by HRDC General Counsel Daniel Marshall; and by Chris Youtz, Rick Spoonmore, and Eleanor Hamburger with the firm of Sirianni Youtz Spoonmore Hamburger, PLLC.

2. ***Brown v. Stored Value Cards*** – HRDC scored a resounding victory in this case in March 2020 when the Ninth Circuit Court of Appeals reversed the trial court's grant of summary judgment to the defendants, rejecting the debit card companies' primary defenses and allowing the case to proceed. In 2021 we were back in trial court where the court certified a class of Oregon plaintiffs, although the ruling on national class certification is still pending. Plaintiffs fought off yet another attempt to compel arbitration and defendants have appealed that as well—decision pending.

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 in 2015 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. At the close of the year the parties are awaiting the trial court's decision on the defendants' new motion for summary judgment. Ms. Brown is represented by HRDC General Counsel Daniel Marshall; by Chris Youtz and Rick Spoonmore with the firm of Sirianni Youtz Spoonmore Hamburger, PLLC; and by Karla Gilbride with Public Justice, P.C., and by Megan Glor in Portland, Oregon.



3. ***Albert v. Global Tel Link, Securus***—HRDC filed a national class action anti trust suit against prison telecom duopoly Securus and Global Tel Link alleging they conspired to defraud consumers by charging people up to \$14.95 to accept a single collect call from a prison or jail. The plaintiff class is represented by HRDC General Counsel Daniel Marshall and Ben Elga at Justice Catalyst, George Farrah at Handley Farrah Anderson LLC and the consumer protection team at Cohen Milstein Sellers Toll.

#### D. New Cases Filed in 2021

1. ***Cain v. JPay, CA*** – Same issues as previous debit card challenges above. In 2021, litigating defendants’ motion to compel arbitration (as in all former challenges). Adam Cain was released on parole from the California prison system and given his gate money and trust account funds on a fee laden debit card. HRDC filed suit on his behalf against JPay in a class action suit. Mr. Cain is represented by HRDC General Counsel Daniel Marshall; by Chris Youtz and Rick Spoonemore with the firm of Sirianni Youtz Spoonemore Hamburger, PLLC and John Burton of John Burton Law.

### IV. PRISON CONDITIONS / DEATH CASES

#### A. New Cases Filed in 2021

1. ***Robert DuBoise v. City of Tampa, et al, FL*** – Case on behalf of a person exonerated by DNA evidence after 37 years behind bars after being wrongfully convicted of a rape murder he did not commit.. Suit was brought against the police officers, dental odontologist , and the city whose actions led to his wrongful conviction. Mr. DuBoise is represented by HRDC general counsel Daniel Marshall and staff attorney Jesse Own and Jon Loevy, Gayle Horn, Heather Donnell and John Hazinski of the Loevy Loevy Law Firm.

#### B. Cases Resolved in 2021

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 parties were briefing competing summary judgment motions at the end of 2020. In 2021 the case was settled just before trial bringing a measure of justice to the family. Mrs. Gaines is represented by HRDC General Counsel Daniel Marshall; 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 filed the following amicus briefs in 2021:

1. ***LISA BRITT, Administratrix of the Estate on behalf of Tommy W. Britt, II, Plaintiff-Appellant, v. Hamilton County, OH*** -- Appeal from the United States District Court, for the Southern District of Ohio to the US Court of Appeals for the Sixth Circuit. Since the US Supreme Court issued its opinion in *Kingsley v. Hendrickson*, courts have begun applying an objective standard for deliberate indifference in Section 1983 civil rights cases involving pretrial detainees.

HRDC brief in support of adopting objective standards for the protection of pretrial detainees' health and safety will help to ensure the physical safety of a population that is often incarcerated solely as a result of poverty and help counter those trial and appeal courts who seek to apply a subjective standard for intent on the part of the abusers.

2. ***VERONICA HYMAN, Personal Representative of the Estate of Deandre Christopher Lipford, Plaintiff-Appellant, v. CLYDE LEWIS, et al.***, Defendants-Appellees, Appeal from the United States District Court for the Eastern District of Michigan Case No. 2:19-cv-11821 to the US Court of Appeals for the Sixth Circuit.

HRDC brief in support of protecting against violations of an individual's Fourteenth Amendment rights when held in pre-trial detention and the argument that an objective standard should apply in assessing intent of officials using excessive force cases.

3. ***SHIKEB SADDZOAI, Plaintiff-Appellant, v. RON DAVIS, Warden of San Quentin State Prison, et al***, CA -- Defendants-Appellees. Appeal from the US District Court for the Northern District of California to the US Court of Appeals for the Ninth Circuit.

HRDC brief challenging the application by the lower court interpretation of exhaustion of remedies requirement which would impose a heavy burden on prisoner litigants of limited means by requiring higher filing fees and thus limited their access to courts based on an ability to pay while at the same time prisons severely limit the amount they can earn.

4. ***Jeremy Wells v Warden Philbin***, et al Appeal to the US Court of Appeals for the Eleventh Circuit from the district court in Georgia. HRDC brief in support of a petition by a prisoner for injuries related to a beating and court determination that he had not exhausted all remedies despite the cost of doing so which would place most cases out of reach for petitioners who,

with albeit meritorious claims, have nearly no access to the resources needed to exhaust remedies based on the court's evaluation of required processes. And that PLRA's requirement that indigent prisoners pay for their appeals after 3 strikes is unconstitutional.

## CONCLUSION

Moving into 2022 the challenges of prison and jail censorship policies and practices appear to be increasing and not diminishing. HRDC continues to monitor the trend towards mail digitization and how this may impact prisoners' ability to receive books, magazines, publications and other communications from the outside world. HRDC continues seeking viable litigation strategies to challenge and end the financial exploitation of prisoners and their families by private corporations and their government collaborators.

Government transparency continues to worsen and agency responses to HRDC public records requests are resulting in increased denials requiring more litigation to ensure increased compliance with public records laws. HRDC's project to ensure private prison companies are subject to state public records laws is gaining momentum and slowly building a favorable body of case law on this topic.

Lastly, HRDC would not be able to file, sustain and successfully litigate this volume of high impact litigation around the country without the wonderful support we receive from our co-counsel which allows us to leverage our limited resources to bring justice to prisons and jails far and wide. All of many co-counsel are named and thanked in each case summary.

## OTHER ACTIVITIES

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### 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 then Chairman Ajit Pai, the FCC did not defend its intrastate rate caps before the Court of Appeals.

In 2020 the California Public Utilities Commission announced rulemaking regulations against prison phone providers in that state. Since then HRDC has been working closely with the Center for Accessible Technology to ensure prisoners in local, state and federal detention facilities have access to low cost telephone technology. Paul Wright, HRDC's Executive Director, has served as an expert witness in the

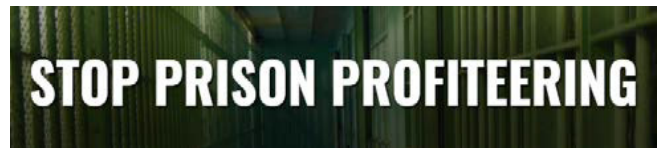
proceeding analyzing and commenting on the prison telecom industries' submissions to the CPUC.

The CPUC proceedings continued through 2021 with HRDC playing a significant role in the proceedings. Driven by the proceedings, the California Department of Corrections and Rehabilitation rebid its contract significantly reducing the cost of its phone calls provided by Global Tel Link.

HRDC continues to advocate for accessible and affordable communications nationally for prisoners and their families and published numerous articles, social media posts and media commentary on the topic

## 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 2021 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. As noted in the litigation section, HRDC continues litigating an anti trust class action suit against Securus and Global Tel Link for their practice of charging consumers \$14.95 for a single 20 minute call. We also continue to press for regulation of the prison telephone industry and the reduction and/or elimination of prison phone costs.

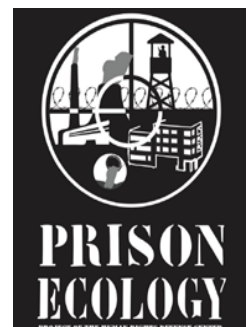
During 2021 we filed a new lawsuit in California over debit cards issued to prisoners released from state prisons (Cain v. JPay), and continued litigating two ongoing cases in Washington (Reichert v. Keefe Commissary Network, LLC) and Oregon (Brown v. Stored Value Cards). For details on those cases, see the litigation section above.

HRDC continues to engage with various regulatory agencies including the Consumer Financial Protection Bureau (CFPB), the California Public Utilities Commission (CPUC) and others around the country seeking to curb or outright ban the most abusive and exploitive practices of the criminal justice system.

## 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 correctional facilities on the environment and the environment's impact on prisoners and prison staff.

In 2021 HRDC continued its environmental advocacy by continuing to investigate the exposure of prisoners to radon gas, a naturally occurring



odorless colorless gas linked to cancer. We published numerous articles on the topic of toxic waste exposures to prisoners around the country and also the increased vulnerability of prisoners to extreme weather conditions exacerbated by climate change.

HRDC continues to raise the issue of negative environmental impact that mass incarceration has and how it continues to worsen. The increasing frequency of weather-related disasters ranging from hurricanes, floods, tornados, wild fires and more, impacting prisoners who are rarely evacuated to safety is an issue of growing importance and a media priority for HRDC.

## 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 2021, HRDC public records manager and development coordinator Samantha Beauvais continued to submit Freedom of Information Act and public records requests to law enforcement and detention agencies nationwide. Our FOIA Project filed several lawsuits in 2021 over denials of our public records requests and continued litigating several others. For details on those cases, see the litigation section above.

As we received documents from public records requests, we continue using them in our reporting in Prison Legal News and Criminal Legal News and we make them available to the public at large by posting them on our websites.

## 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 2020, HRDC had over 4,500 e-newsletter members, over 16,000 combined Facebook likes, over 20,000 Twitter followers and over 600 followers on LinkedIn.



## COLLABORATIONS & AFFILIATIONS

HRDC collaborated with other organizations in 2021 on a variety of advocacy efforts, reports, campaigns and other projects – including Justice Catalyst, Working Narratives, Uptown Peoples' Law Center, Emancipate NC, 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 Jesse Isom is a member of the National Lawyers Guild's National Police Accountability Project.

## LOOKING FORWARD: GOALS FOR 2022

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HRDC plans to continue our criminal justice reform and public education efforts in 2022 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 2021 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 2022. 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. A developing area we are monitoring is the small but growing trend of digitizing prisoner mail.

While HRDC continues to participate in the national Campaign for Prison Phone Justice and advocate for lower prison and jail phone rates, due to the lack of resources we have had to significantly scale back the project. Though it could be quickly scaled up again if funded. We are significantly involved in the effort to regulate prison and jail phone calls in California by the state utilities commission.

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*.

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.

A critical priority for HRDC has been, and will be, to maintain the safety of its staff during the Covid pandemic to ensure we have the organizational capacity to continue publishing, advocating and litigating on behalf of prisoners and their families. As 2021 closed, no HRDC staff had contracted Covid. Despite the challenges of remote work for most HRDC staff, we maintained our organizational capacity to effectively publish, litigate and advocate on behalf of our prisoner constituency and we plan to continue that into 2022.



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