

**STATE OF VERMONT  
SUPERIOR COURT  
CIVIL DIVISION**

**Washington Unit**

**Human Rights Defense Center,**  
a not-for-profit corporation,  
*Plaintiff*

Docket No.: \_\_\_\_-2- 19 Wncv

v.

**Correct Care Solutions, LLC and  
Correctional Care Solutions  
Group Holdings, LLC,  
d/b/a Wellpath,**  
*Defendant.*

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**COMPLAINT**

**I. Introduction**

1. Government transparency is a cornerstone of a functioning democracy.
2. This case seeks to vindicate the public's right to know what its government is doing, and to access records showing a private corporation's performance of duties delegated to it by the State of Vermont.
3. The Human Rights Defense Center brings this action against Correct Care Solutions to enforce Vermont's Public Records Act, enshrined in 1 V.S.A. §315 (2018), *et seq.*

**II. Jurisdiction and Venue**

4. This Court has jurisdiction to hear public records enforcement actions under Vt. Stat. Ann. tit. 1, § 319(a) (2018).

5. This Court has personal jurisdiction over the defendant because it availed itself of the laws of Vermont, and purposefully directed commercial activities to the State of Vermont.
6. Venue is proper in this Unit because the Public Records Act expressly provides for it.

### **III. Parties**

7. Plaintiff HRDC is a non-profit charitable organization incorporated in the state of Washington, with principal offices in Lake Worth, Florida.
8. Correct Care Solutions, LLC (“Correct Care Solutions”) is incorporated in Kansas, and is based in Nashville, TN.
9. Correct Care Solutions, LLC, is now a wholly-owned subsidiary of Correct Care Solutions Group Holdings, LLC, doing business as Wellpath
10. The Wellpath company was formed in September 2018 when HIG Capital, LLC acquired Correct Care Solutions.
11. Correct Care Solutions, LLC provided medical care to people people committed to the Vermont Department of Corrections, at least between 2010 and 2015.
12. When it provided for the care for people committed to the Vermont Department of Corrections by the Vermont judiciary, the Correct Care Solutions stood in the shoes of the Vermont Department of Corrections and therefore was a public agency under the Access to Public Records Act (“PRA”).

## IV. Facts

### A. Human Rights Defense Center's Background and Mission

13. For almost twenty-nine years, HRDC's mission has been public education, prisoner education, advocacy, and outreach in support of the rights of prisoners and in furtherance of basic human rights.

14. To accomplish its mission, HRDC gathers information from governmental entities around the country and publishes the information in its journals and on its websites.

15. HRDC publishes and distributes books, magazines, and other information containing news and analysis about prisons, jails, and other detention facilities, prisoners' rights, court rulings, management of prison facilities, prison conditions, and other matters pertaining to the rights and interests of incarcerated individuals.

16. HRDC publishes two magazines: *Prison Legal News (PLN)* and *Criminal Legal News (CLN)*.

17. *PLN* is a legal journal that reports news and litigation about carceral facilities.

*PLN* has published monthly since 1990 and is delivered to over 9,000 people in all 50 states. Based on reader survey results, the estimated actual readership is around ten times that number. *PLN's* subscribers include lawyers, journalists, judges, courts, public libraries, and universities. *PLN* also maintains a website that receives about 100,000 visitors per month based on site analytics.

18. *CLN* is a legal journal launched in November, 2017. *CLN* reports on criminal law decisions from the states and federal systems, focusing on legal developments affecting the fact and duration of confinement. *CLN* also covers civil rights

litigation against police, prosecutors, and court systems.

19. HRDC publishes books about the criminal justice system and legal issues affecting prisoners.
20. "Human Rights Defense Center" is the subsequent name of the organization "Prison Legal News," the plaintiff in *Prison Legal News v. Corr. Corp. of Am.*, Washington Unit, No. 322-5-13 WNCV, with reported decisions at 2015 Vt. Super. LEXIS 91, 2015 Vt. Super. LEXIS 41, and 2014 Vt. Super. LEXIS 36. See also, *Prison Legal News v. Prison Health Services, Inc.*, Washington Unit, No. 622-8-10 Wncv.

## **B. Correct Care Solutions Stood in the Shoes of the Department of Corrections**

21. The Vermont Department of Corrections is a Vermont agency. 3 V.S.A. § 3081.
22. The United States Constitution's Eighth Amendment and the law of Vermont requires the Vermont Department of Corrections to provide health care for all people in its custody. See U.S. Const. amend. XVIII, 28 V.S.A. § 801(a).
23. To provide health care to the people within its custody, the Vermont Department of Corrections has contracted with several non-governmental for profit corporations over the years.
24. From roughly 2010 until 2015, the Vermont Department of Corrections contracted with Correct Care Solutions ("CCS") to provide health care for all people in its custody.
25. For the period of the contract, CCS was the functional equivalent of the Vermont Department of Corrections for those people to whom it provided care.

## **C. The Human Rights Defense Center's Public Records**

### **Request**

26. As part of its research and reporting activities, on December 19, 2017 HRDC sent a public records request to Correct Care Solutions headquarters for the following information:

A. Records, regardless of physical form or characteristics, sufficient to show for all claims or lawsuits brought against Correct Care Solutions, Inc. and/or any of its agents or employees in connection with your activities performed pursuant to contract with the Vermont Department of Corrections, in which payments of any amount were disbursed from January 1, 2010 to the present:

- The name of all parties involved;
- The case or claim number;
- The jurisdiction in which the case or claim was brought (e.g., US District Court for the District of Vermont, Vermont Superior Court, pre-litigation demand, etc.);
- The date of resolution;
- The amount of money involved in the resolution and to whom it was paid,

B. For each case or claim detailed above:

- The complaint or claim form and any amended versions;
- The verdict form, final judgment, order, settlement agreement, consent decree, or other paper that resolved the case or ordered the money be paid.

27. HRDC also requested a copy of all contracts in effect at any time since January 1, 2010 between Correct Care Solutions and any governmental agency, department, or office in Vermont, including all exhibits and amendments thereto.

28. The request was sent by first class U.S. Mail to Correct Care Solution's Executive Vice President and Chief Legal Officer, David Perry, at Correct Care Solution's corporate headquarters in Nashville, Tennessee. David Perry is now identified as Wellpath's Chief Legal Counsel. See <https://wellpathcare.com/leadership/> (last visited Dec. 3, 2018) (also available at <https://perma.cc/K3WV-U3GW>).
29. To date, neither Correct Care Solutions nor Wellpath has responded to HRDC's request.

#### **V. HRDC's Count Against the Defendant**

30. The preceding paragraphs are re-alleged and incorporated as if fully set forth herein.
31. By contracting with the Department of Corrections to care for Vermont prisoners, Correct Care Solutions is a "public agency" as that term is defined by 1 V.S.A. § 317(b) .
32. The information requested by HRDC are public records, as defined by 1 V.S.A. § 317(b) .
33. By failing to provide HRDC with copies of public records, Correct Care Solutions has contravened the Public Records Act.

#### **VI. HRDC's Request for Relief**

34. HRDC therefore requests that this Court:
- (a) declare that the Defendant is a public agency, as that term is defined in the Public Records Act, and therefore subject to the provisions of

Vermont's Public Records Act, 1 V.S.A. §§ 315 *et seq.*;

- (b) declare that the records sought are public records;
- (c) declare that the Defendant's continued withholding of the requested records is unlawful;
- (d) order the Defendant to produce the requested records; and
- (e) award HRDC its costs and attorneys' fees reasonably incurred in bringing this action.

Date: February 4, 2019

Respectfully Submitted:



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