NATIONAL PRISON PROJECT LITIGATION DOCKET

ARIZONA

Parsons v. Ryan (D. Ariz., 9th Cir.)

In this statewide class action the NPP and the ACLU of Arizona represent more than 34,000 Arizona prisoners in a challenge to the state's failure to provide minimally adequate health care and its abusive use of long-term solitary confinement. In 2014 the case was settled on the eve of trial, with the state agreeing to comply with more than 100 performance measures governing health care and solitary confinement. Unfortunately, prison officials have consistently failed to meet their obligations, resulting in the court repeatedly finding them in breach of the settlement agreement. In late 2016 the court ordered state officials to use community medical facilities, pharmacies, and other outside resources to provide health care to prisoners if state resources are not sufficient. The state's appeal of that order is now before the 9th Circuit.

Graves v. Arpaio (D. Ariz., 9th Cir.)

The NPP challenged conditions of confinement for pretrial detainees in the Maricopa County Jail in Phoenix, one of the nation's largest, run by Sheriff Joe Arpaio, the self-styled "toughest Sheriff in America." In October 2008, following a month-long trial, the district court found that the Sheriff and the County were subjecting detainees to unconstitutional overcrowding and denying them adequate nutrition, sanitation, exercise, and medical and mental health care. The court entered a broad injunction and granted plaintiffs $1.2 million in attorney fees. The Sheriff appealed; in October 2010 the 9th Circuit affirmed the district court judgment. We asked the district court to appoint independent experts to monitor the County's compliance with the judgment, and to report periodically to the court. In August 2013, the Sheriff and the County filed a motion to terminate the case. In March 2014, the court held a two-week trial, and denied the defendants' motion in September 2014. The court also entered a new judgment that added 31 implementing remedies. In April 2016, the parties completed briefing on defendants' compliance with the implementing remedies. That same month, plaintiffs filed a motion to enforce the judgment, asking the court to order defendants to hospitalize seriously mentally ill prisoners who cannot be adequately treated at the Jail. On February 15, 2017, the court heard argument on the status of defendants' compliance, and on March 1, 2017

ordered an extension of the monitoring period for ten implementing provisions, and denied plaintiffs' motion to enforce.

CALIFORNIA

Hernandez v. County of Monterey (N.D. Cal.)

In September 2013, the NPP joined as co-counsel with the ACLU of Northern California, the Monterey County Public Defender's office, and Rosen, Bien, Galvan, and Grunfeld in a class action challenging conditions of confinement at the Monterey County Jail. The Jail is a chronically overcrowded facility where prisoner-on-prisoner and gang violence are a daily occurrence. In the fourteen months leading up to the September 2013 filing of the amended complaint, there were over 150 assaults at the Jail. The facility is also plagued by dangerous and inadequate medical and mental health care, and the suicide rate over the past four years is three times the national average. Disabled prisoners are also systematically discriminated against and excluded from many programs and services at the facility.

In October 2015, plaintiffs filed a preliminary injunction motion asking the court to remedy hazards in suicide prevention, tuberculosis control, continuity of medications, treatment of detoxifying prisoners, and discrimination against prisoners with disabilities in violation of the Americans with Disabilities Act. A preliminary injunction was granted in April 2015. A comprehensive settlement was reached in May 2015, addressing all of plaintiffs' claims, and incorporating the relief secured via the preliminary injunction. Monitoring is ongoing.

Lyon v. U.S. Immigration and Customs Enforcement (N.D. Cal.)

In January 2014, the NPP joined as co-counsel with the ACLU of Northern California and Orrick, Herrington & Sutcliffe, LLP in a class action challenging the inadequate telephone access afforded to immigration detainees in Northern California. Various restrictions on telephone access, as well as the high cost of telephone calls and barriers to arranging private unmonitored attorney-client calls, make it difficult or impossible for detainees to obtain counsel, consult with counsel, and gather information and evidence necessary for their immigration cases. Restriction of telephone access has also substantially prolonged the incarceration of many detainees because they have been forced to ask for continuances to retain counsel, consult with counsel, or prepare their cases. The case seeks to remove these barriers to effective representation and to a full and fair hearing by modifying ICE telephone access policies and practices.

On November 18, 2016, the court approved the settlement reached by the parties, which provides for increased telephone access for detainees. Under the terms of the settlement, ICE must, among other things, provide speed dials for detainees to make free, direct, unmonitored calls to government offices and immigration attorneys who provide pro bono services; permit legal calls to family, friends, and other persons to obtain testimony and documents integral to supporting immigrations cases; and offer phone credit or other

accommodations for those who can't afford to pay for calls. ICE has one year to make the changes under the settlement and has agreed to modify its inspection forms used nationwide so that phone access will be subject to greater oversight in all of its facilities.

Rosas v. Baca (C.D. Cal.)

In September 2011, the NPP and the ACLU of Southern California published a major report: *Cruel and Usual Punishment: How a Savage Gang of Deputies Controls the LA County Jails*. The report, the product of three years of intensive investigation by the ACLU, detailed a shocking pattern of longstanding, pervasive, savage beatings of prisoners by Sheriff's deputies organized in gangs inside the jail. In January 2012, the ACLU and Paul Hastings LLP filed Rosas v. Baca, a class action lawsuit seeking injunctive relief from the systemic violence documented in the report.

The ACLU allegations triggered a firestorm of publicity, helped launch a wide-ranging federal criminal investigation, and prompted the Los Angeles County Board of Supervisors to appoint a blue-ribbon panel of retired federal judges and prosecutors, the Los Angeles Citizens Commission on Jail Violence, to hold public hearings and make findings and recommendations. In September 2012, the Commission released its final report, concluding that "[t]here has been a persistent pattern of unreasonable force in the Los Angeles County jails that dates back many years," and recommended far-reaching reforms. Since that time there have been more than eighteen federal criminal indictments for deputy brutality, and millions of dollars in jury verdicts have been awarded to some of the victims who brought damages cases.

In January 2014, a few weeks after the indictments, Sheriff Lee Baca abruptly announced his retirement after 15 years on the job; he has since been indicted on federal obstruction of justice charges arising out of alleged efforts to block investigation of the jail violence. Shortly thereafter, the Sheriff's Department entered into settlement negotiations with the Rosas plaintiffs, resulting in a comprehensive settlement that was approved in 2015. The settlement has led to the development of a court-ordered action plan that includes over 100 specific remedies to address violence and accountability at the Jail. Monitoring is ongoing.

FEDERAL

ACLU v. Department of Justice, Bureau of Prisons (D.D.C.)

The ACLU filed suit against the federal Bureau of Prisons for refusing to fulfill a Freedom of Information Act (FOIA) request for documents related to Bureau officials' visit in 2002 to a CIA detention site in Afghanistan, their positive assessment of the conditions, and the training they provided to the site's administrators. Code-named COBALT and also called "the Salt Pit," the site held people suspected of terrorism, and they were tortured there, according to the U.S. Senate Intelligence Committee's torture report that was declassified in 2014.

In 2015, the Bureau of Prisons, which is part of the Department of Justice, declined the ACLU's FOIA request for documents related to the COBALT visit, writing that "no such records exist." The ACLU appealed the request; the Bureau denied the appeal.

As a result of our litigation, the Bureau of Prisons has revealed that the CIA directed the Bureau to take extraordinary measures to cover up the Bureau's visit to COBALT. The personnel who visited "were not even allowed to speak with our supervisor about what was going on." The Bureau of Prisons further revealed that although two Bureau employees had in fact visited a CIA detention site in an undisclosed country in 2002, their official travel histories omitted any mention of international travel during that visit.

FLORIDA

Carruthers v. Israel (S.D. Fla.)

This is a longstanding class action regarding conditions at the Broward County Jail (BCJ). The case was settled in 1994, resulting in a consent decree mandating a population cap and improvements in various operations at the jail. In 1996, the jail filed a motion to terminate the decree pursuant to the Prison Litigation Reform Act, and the NPP joined the case to assist local counsel in preparing for the evidentiary hearing. The court appointed experts in the fields of medical and mental health care and corrections. Through 2007, the experts identified ongoing systemic problems at the Jail, along with significant improvements.

Subsequently, the parties have repeatedly agreed to postpone the termination hearing while the court-appointed experts re-inspect the jail. In 2006, the jail was plagued by serious overcrowding. The NPP urged the Sheriff to contract with the U.S. Department of Justice, National Institute of Corrections (NIC), to conduct an audit and determine the cause of the overcrowding. The Sheriff agreed, and the NIC completed its audit in April 2007. As a result of the audit, the Sheriff asked the county commission to nearly double the size of the supervised release program.

In 2009, the Sheriff closed one of the five jail facilities, and the daily population climbed through 2010, resulting in overcrowding in the remaining jail buildings. The court thereafter granted our motion and appointed Dr. James Austin, a nationally recognized expert on correctional population management, to conduct a jail and justice system assessment, and make recommendations for criminal justice reforms to lower the BCJ population. Dr. Austin issued his last report in October 2016, identifying over a dozen reforms that could further lower the jail's population (which has decreased significantly since its 2006 high) by 20%.

In 2016, the plaintiffs reached a comprehensive settlement with the Sheriff that establishes a process to resolve the remaining mental health and corrections/security claims in the case. The settlement was approved in December 2016, and a set of specific remedies will be proposed by neutral experts in mid-2017.

MARYLAND

Duvall v. Hogan (D. Md., 4th Cir.)

This case involves conditions in the Baltimore City Detention Center, a jail operated by the state of Maryland. After an earlier settlement failed to remedy serious risks to prisoner health and safety, in 2015 we filed a motion to reopen the case, setting forth numerous examples of grossly deficient medical and mental health care and avoidable deaths, as well as dangerous and disgusting environmental conditions. A new settlement agreement was reached and approved by the court in June 2016; it provides for the state's compliance to be monitored by independent experts in medical care, mental health care, and environmental health and safety, as well as by plaintiffs' counsel.

MISSISSIPPI

DePriest v. Walnut Grove Correctional Authority (S.D. Miss., 5th Cir.)

In November 2010, the NPP and the Southern Poverty Law Center filed suit on behalf of the 1,500 young men, ages 13 to 22, sentenced as adults and confined in Walnut Grove Youth Correctional Facility, a private, for-profit prison. The suit challenged a pattern of physical and sexual abuse by security staff, prolonged solitary confinement, abuse and neglect of mentally ill youth, and failure to provide educational services to young people with special needs.

In March 2012 the parties reached a settlement, and federal judge Carleton Reeves entered a groundbreaking decree that required the State to move all youth under the age of 18, and all vulnerable youth under the age of 20, out of the privately-operated prison and into a separate facility operated by the state, governed in accordance with juvenile rather than adult correctional standards; categorically prohibited solitary confinement of youth; and provided all prisoners with protection from staff violence and abuse. The judge wrote that the youth, "some of whom are mere children, are at risk every minute, every hour, every day. Without court intervention, they will continue to suffer unconstitutional harms, some of which are due to aberrant and criminal behavior [by prison staff]. [Walnut Grove] has allowed a cesspool of unconstitutional and inhuman acts and conditions to germinate." He added, "The sum of these actions and inactions…paints a picture of such horror as should be unrealized anywhere in the civilized world."

In 2013, all youth under the age of 18 and all vulnerable youth under the age of 20 were moved from the private prison at Walnut Grove into a newly constructed state facility, where they receive a rich array of educational programming and have ample access to mental and medical health care. Unfortunately for those who remained, Walnut Grove continued to be plagued by violence, including two major riots. In July 2014 we filed a motion to enforce the consent decree; the state responded with a motion to terminate the decree in its entirety. After a six-day trial, Judge Reeves found ongoing constitutional violations, and denied the state's termination motion. The state appealed to the Fifth

Circuit, but while the appeal was pending, the state permanently closed Walnut Grove in September 2016. The Fifth Circuit ruled that the prison's closure mooted the state's appeal; the parties are currently litigating attorney fees in the district court.

Dockery v. Epps (S.D. Miss.)

The NPP, the Southern Poverty Law Center, and the Law Offices of Elizabeth Alexander filed a federal lawsuit in May 2013 on behalf of prisoners at the East Mississippi Correctional Facility, describing the for-profit prison as hyper-violent, grotesquely filthy and dangerous. The facility, located in Meridian, Mississippi, is supposed to provide intensive treatment to the state's prisoners with serious psychiatric disabilities, many of whom are locked down in long-term solitary confinement. The suit challenges the isolation of the mentally ill; inadequate mental health and medical care; abuse and violence at the hands of staff; failure to protect prisoners; pervasive filth and unsanitary conditions; and inadequate nutrition and food safety. Since the case's filing, the law firm of Covington and Burling has also undertaken representation of the plaintiffs in the case.

In September 2015, the Court issued an order certifying the class and subclasses. After touring the facility and reviewing thousands of pages of documents, plaintiffs produced a second set of expert reports in December 2016. Discovery is ongoing and a month-long trial is set for October 2017.

MONTANA

Langford v. Bullock (D. Mont.)

This case was filed following a serious disturbance at the Montana State Prison (MSP) that resulted in seven deaths. The lawsuit challenged inadequate medical and mental health care, overcrowding, and inadequate environmental and fire safety conditions, classification policy, and sex offender policies. The parties settled all issues except those related to treatment of protective custody prisoners, which were ultimately tried in a separate case filed by the Department of Justice.

In 2005, after eleven years of monitoring during which the defendants built an infirmary, doubled physician staff, hired a medical director, and revised their health care policies, the health care experts appointed pursuant to the settlement agreement found that the prison had complied with the agreement's medical provisions, and those provisions were dismissed. The district court denied the defendants' motion to dismiss the provision of the agreement requiring them to comply with the Americans with Disabilities Act (ADA). The state appealed to the 9th Circuit, which unanimously upheld the district court's order.

In January 2011, the State agreed to make a number of long-overdue renovations to physical barriers faced by MSP prisoners with physical disabilities. Among the renovations are the retrofitting of more cells on the high security side of the prison and the installation of an elevator in the support building on the low security side, which will for

the first time allow disabled prisoners to use the library and to participate in classes and vocational programs offered on the second floor of that building.

In 2013, two disabilities experts completed a comprehensive ADA assessment at MSP and produced a report on their findings. They recommended changes to policies and procedures, as well as physical plant renovations, to bring MSP into compliance with the ADA. Defendants agreed to implement a number of these recommendations over a nine-month monitoring period. On February 15, 2017, the parties reached a comprehensive settlement agreement that requires remediation of physical barriers throughout MSP, and the revision of some three dozen policies to ensure the end of discrimination against prisoners with disabilities.

RHODE ISLAND

Inmates of the Rhode Island Training School v. DeFrances (D.R.I.)

This class action involves conditions of confinement and program management at the juvenile facilities for all detained and adjudicated girls and boys in Rhode Island. As part of the consent decree negotiated in this case, the legislature appropriated $60 million to fund the construction of new facilities with a state-of-the art medical clinic, school and program facilities, recreation yards, and video-monitored living units for staff and resident safety. These facilities replaced decrepit, unsafe "temporary" cottages built decades earlier.

The consent decree also caps the population at the Training School by requiring that each youth have an individual room. This population cap, combined with legislation capping the population of securely confined youth in the state, and efforts to create community-based programs and alternatives to detention for youth, led to a substantial decrease of approximately 50% in the confined juvenile justice population in the state.

As part of the consent decree the ACLU also worked with the state and the court's Special Master to create an updated handbook for youth that advises them of their rights and facility rules in an easy-to-understand format. The parties also developed a new grievance system that is responsive to youth needs, includes parents and guardians in the process, and provides for external oversight. We have also worked with defendants, the Special Master, and outside experts to revise policies and procedures at the Training School and to implement national best practices, along with comprehensive training and skill-building for staff at all levels in the facility. In 2017 we are entering the final phase of the litigation, working with state officials to obtain independent expert certification for both the detention unit and the adjudicated unit. This will make the Training School the first facility in the country to be audited and accredited under the juvenile justice best-practice standards set forth by the Annie E. Casey Foundation, which emphasize positive youth development and youth-centered approaches to policy and practice in juvenile justice facilities.

UNITED STATES VIRGIN ISLANDS

Carty v. Mapp (D.V.I.)

This class action culminated in a comprehensive consent decree requiring the Virgin Islands government to remedy severe overcrowding, squalid conditions, and deficient medical and mental health care, and to institute prisoner classification and fire safety measures to ensure the safety and security of prisoners at the two facilities in the system.

The court has held the defendants in contempt of the court-ordered remedies four times over the past dozen years, and has entered a number a specific remedial orders. In November 2004, the court ordered the government to construct a certified forensic facility to house persons found not guilty of criminal offenses by reason of mental illness, and those who are chronically mentally ill.

In January 2008, National Public Radio broadcast a story about our lawsuit and a seriously mentally ill prisoner who had been incarcerated for over five years after he allegedly attempted to steal a bicycle. Shortly thereafter, the government transferred that prisoner and several other severely mentally ill prisoners to psychiatric facilities in the mainland United States.

In August 2013, the parties reached a comprehensive settlement that incorporated all previously ordered relief and additional remedies. Under the settlement, a team of experts began conducting site visits in May 2014 to assess defendants' compliance. Under the terms of the agreement, the experts must conclude that the defendants have sustained compliance with each provision of the agreement for at least one year before they can seek termination of the case.

In 2015, the court found that the defendants had made little to no progress toward compliance with the settlement, and ordered the case to be placed on a schedule of quarterly evidentiary hearings to address their compliance both with the Agreement, and with quarterly compliance goals to be developed by the parties. So far, six evidentiary hearings have been held. The court also appointed a criminal justice expert to assess the entire Virgin Islands criminal justice system and make recommendations for reforms to reduce the number of men and women held in the jail and exposed to the dangerous conditions there. The expert's report is expected in mid-2017.

MARCH 2017