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 2017, citing their "pervasive and intractable failures to comply" with the settlement, the court ordered prison officials to show cause why they should not be held in contempt and fined $1,000 for each occasion on which a patient did not receive the health care services to which he or she was entitled, a sanction that would amount to millions of dollars each month. The court's contempt order is pending.

Graves v. Penzone (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 the infamous Sheriff Joe Arpaio. In October 2008, following a month-long trial, the 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 awarded 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 we filed a motion to enforce the judgment, asking the court to order defendants to hospitalize seriously mentally ill patients who cannot be adequately treated at the Jail. The court ordered an extension of the monitoring period for ten implementing provisions, but denied our motion

to enforce. In December 2017, we again filed a motion to enforce the judgment, and for additional remedies to address ongoing Constitutional violations.

CALIFORNIA

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

In September 2013, the NPP joined as co-counsel 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, we 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 in a class action challenging the inadequate telephone access afforded to people detained by U.S. Immigration and Customs Enforcement (ICE) 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 detained individuals 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 those in immigration detention with increased telephone access. Under the terms of the settlement, ICE must provide speed dials 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 immigration 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. We are currently monitoring ICE's compliance with the settlement agreement.

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

In September 2011, the NPP and the ACLU of Southern California published *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 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 convicted on federal obstruction of justice charges arising out of 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, some of whom were tortured, according to the U.S. Senate Intelligence Committee's torture report that was partially 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.

ACLU v. Dept. of Homeland Security, Immigration and Customs Enforcement (D.D.C.)

On May 25, 2017, the ACLU filed suit against the Department of Homeland Security for failing to respond to a Freedom of Information Act (FOIA) request for documents related to the treatment of hunger strikers in Immigration and Customs Enforcement detention facilities. The request, which was filed in August 2016, seeks agency policies as well as records of specific cases. In recent years, hunger strikes have occurred in immigration detention facilities throughout the United States. Often, these protesters have sought to call attention to lack of access to bond hearings that could result in their release, and to inhumane conditions of confinement. ICE and local prison operators have sometimes met these protests with extraordinarily punitive responses, including solitary confinement and physical abuse. Since the case was filed, ICE has provided some records in response to the FOIA request and we continue to negotiate with them for additional disclosures.

FLORIDA

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

This is a class action regarding conditions at the Broward County, Florida Jail (BCJ), one of the state's largest. 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 granted our motion to appoint 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) 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, a set of specific remedies was proposed by a court-appointed mental health expert in early 2018, and settlement negotiations regarding those proposed remedies is ongoing.

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. Monitoring is currently ongoing.

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. Hall (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 private, 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 instead 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. Trial concluded in April 2018; a decision from the court is pending.

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, dangerous environmental and fire safety conditions, and inadequate classification 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 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 and the installation of an elevator in the support building, 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. In February 2018, 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. A fairness hearing to approve the settlement is scheduled for June 2018.

NEBRASKA

Sabata v. Nebraska Department of Correctional Services (D. Neb.)

Filed in 2017, this statewide class action challenges a litany of systemic failures in the Nebraska Department of Correctional Services. Nebraska's prison system is one of the most overcrowded in the nation; the entire system is at approximately 160% of its design capacity, with individual prisons at 200% or even 300% of capacity. Claims in the case include chronic overcrowding, inappropriate and excessive use of solitary confinement, discrimination against prisoners with disabilities, and inadequate medical, mental health, and dental care. We will seek class certification in late 2018.

NEW MEXICO

Oakleaf v. Martinez (D.N.M.)

The NPP and our co-counsel represent Julie Oakleaf, a transgender woman in the custody of the New Mexico Corrections Department. The complaint alleges that the Corrections Department and the private, for-profit prison where she is held have failed to properly diagnose and treat her gender dysphoria, and therefore have denied her medically necessary care in violation of the Eighth Amendment. The case is in the initial discovery phase.

PENNSYLVANIA

Reid v. Wetzel (M.D. Pa.)

This case challenges the Pennsylvania prison system's practice of holding all death-sentenced prisoners in automatic and permanent solitary confinement. All prisoners under sentence of death are held in isolation, regardless of their institutional conduct, until they die by execution or other causes, or until their death sentence is overturned. Our clients have been in continuous solitary confinement for periods ranging from sixteen to twenty-seven years; none have ever been given an opportunity to challenge their placement in isolation. The court granted our motion for class certification in April 2018.

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. Quarterly hearings continue in the case.

JUNE 2018