

PRISON LEGAL NEWS – ANNUAL REPORT

FISCAL YEAR

August 1, 2005 - July 31, 2006

PLN – The Magazine

Prison Legal News completed its 16th consecutive year of publication, continuing our trend of being the longest lasting independent magazine published by and on behalf of prisoners. During fiscal year 2006, PLN ran cover articles on jails and prisons in Texas, Georgia, Maine, Tennessee and New York, as well as feature articles on Prison Health Services, the American Correctional Association, a boycott of prison design, privatized medical services in Delaware, and the federal court takeover of prison health care in California.

PLN also greatly increased its distribution of free sample issues to prisoners and non-prisoners, to both expand awareness about PLN and to increase our exposure to potential subscribers. PLN distributed approximately 15,000 sample copies in 2005 and 90,000 in 2006.

Over the same time period, PLN's number of registered subscribers increased from 4,944 at the beginning of 2005 to 5,552 in 2006. Our experience with sample mailings has indicated very few prison-related mailing lists are kept up to date, and there is a longer lag time between when samples are sent to a particular list and when it begins to generate results. We are still getting subscriptions from mailings sent out over 8 months previously. Our subscriber numbers continue to grow; PLN has subscribers in all 50 states as well as France, Sweden and Japan.

PLN's book sales showed a moderate increase during fiscal year 2005-2006, rising to \$39,780.90 in sales. PLN distributes a wide variety of hard-to-find works on criminal justice issues, as well as self-help legal resources useful to prisoners who are litigating their own cases.

PLN board member Tara Herivel and Paul Wright, with research assistance from Alex Friedmann, also did significant work on PLN's next book, *Prison Profiteers: Who Makes a Buck From Mass Incarceration*, which deals with the political economy of mass imprisonment and the interests that benefit from this state of affairs. The book is slated for publication by The New Press in November, 2007.

A significant technical milestone for PLN during the past year was changing its layout program to InDesign. This change resulted in a delay in printing and distribution of a number of issues from late 2005 to mid-2006; however, it will substantially improve PLN's ability to do online and electronic publishing. We also outsourced the print design of PLN to Catalytic Communications in Seattle.

PLN – The Website

During the past fiscal year we developed PLN's website by putting all of our back issues into a comprehensive database, posting all of our issues online in PDF format, developing an online brief bank and publications section for use by members, adding an online bookstore, and much more. The website has been a work in progress and we are in the process of revamping it to make it more user friendly by simplifying and improving the search and user menus, adding more features, and improving functionality. Over 180,000 distinct users visited the website during this time period.

PLN – Staff

In October 2005 PLN hired Alex Friedmann as a full-time Associate Editor. His primary responsibilities include news and legal research, as well as editing and updating articles, producing original writing, and assisting with PLN's general day-to-day tasks.

Alex first contacted PLN in the early 1990's, and began writing for PLN in 1996 while he was still incarcerated in the state of Tennessee, contributing four cover articles. He continued assisting PLN on a volunteer basis following his release in November 1999. Alex has been involved in a number of criminal justice-related activities, including working as a legislative advocate for a non-profit organization on behalf of families of Tennessee prisoners, volunteering as a trained mediator in juvenile court, and involvement in disenfranchisement, anti-death penalty and anti-prison privatization efforts.

During the past year Alex produced a 12,000-word feature article on the private prison transportation industry, and helped increase the quality of PLN's news and law-related content through his research, editing and proofing.

PLN's other administrative staff during the past fiscal year included Paul Wright, Editor, and Don Miniken, Executive Director. PLN's full-time office staff included Barbara Belen, bookkeeper and advertising manager, and Vanessa Flores, circulation manager, who were assisted by community volunteers and work study students.

PLN continued publishing the work of prisoners, freelance writers, attorneys and others in our magazine and increased the use of such articles on the website.

PLN – Board of Directors

There was no change in PLN's board of directors this year.

PLN – Advocacy

During fiscal year 2006, PLN continued its long-standing practice of advocating for prisoners' rights and criminal justice reform through staff attendance and speaking engagements at public discussions, meetings and educational/academic conferences, including the following highlights:

- PLN Editor Paul Wright attended the National Lawyers Guild convention in Portland, Oregon in October 2005. He convened and moderated panel discussions on Hepatitis C advocacy and litigation in Oregon (panelists included Brigitte Sarabi of the Western Prison Project and Michelle Burrows, a Portland attorney who brought the first successful Hepatitis C class action suit on behalf of prisoners), and torture in U.S. prisons and jails and in U.S. run military prisons overseas (panelists included Lucas Guttentag of the ACLU Immigration Project; Anne Marie Cusac, journalist with The Progressive; Rachel Meeropol, counsel for Guantanamo prisoners at the Center for Constitutional Rights; and Marjorie Cohn, law professor and Vice President of the NLG).
- In October 2005, Paul Wright gave a presentation on the First Amendment, free speech and public records litigation at an invitation-only legal seminar held at the University of Southern California law school in Los Angeles. The prisoner rights litigation seminar was organized by the ACLU's National Prison Project, the University of Southern California Law School and the Post Conviction Justice Project.
- Paul Wright was recipient of a Petra Foundation fellowship for social justice activists in November 2005. In his acceptance speech at the National Press Club in Washington D.C. he spoke about the plight of America's 2.3 million prisoners.
- In November 2005, Paul Wright also gave a presentation on the criminal justice system to criminology students at Simmons College in Boston. Students used *Prison Nation* as their course book.
- Paul Wright gave a presentation on the plight of the mentally ill in the criminal justice system at the National Association for Rights Protection and Advocacy (NARPA) annual convention in Hartford, Connecticut in November 2005. His co-panelist was Antonio Ponvert, a Bridgeport, Connecticut attorney who frequently represents mentally ill prisoners in civil rights litigation.
- PLN Associate Editor Alex Friedmann covered the American Correctional Association's winter conference held in Nashville, Tennessee from January 28 to February 1, 2006, and attended various panel discussions and presentations on topics ranging from Hepatitis C treatment for prisoners to the Prison Litigation Reform Act.
- In February 2006, Paul Wright gave a presentation on the criminal justice system and mass imprisonment to sociology students at Middlebury College in

Middlebury, Vermont. The course was taught by Brett Dignam of Yale Law School.

- Alex Friedmann attended a presentation by former Attorney General John Ashcroft on the death penalty, held in Nashville, Tennessee on February 13, 2006, and questioned Ashcroft on the race-based application of capital punishment at the federal level.
- Paul Wright attended a Yale demonstration in New Haven, Connecticut in March 2006. Alex Friedmann and work study assistant Sam Phillips also attended this demonstration, which was organized by GESO, a student labor group. Alex spoke at the event, which called for Yale to divest its stock holdings in Corrections Corporation of America, the nation's largest private prison operator. Three months later, in May 2006, Farallon Capital Management, an investment firm working for Yale, sold off its CCA stock.
- In March 2006, Paul Wright spoke against the death penalty at a discussion at University of Vermont Law School in South Royalton. His fellow panelists were Lennox Hinds, noted civil rights lawyer and law professor at Rutgers, and Robert Bryan, a death penalty attorney from California.
- Paul Wright and Alex Friedmann attended an invitation-only conference on prison oversight held at the University of Texas Law School in Austin, Texas in April 2006. The conference, organized by Michele Deitch, adjunct professor at the Lyndon B. Johnson School of Public Affairs at University of Texas in Austin and a Soros Senior Justice Fellow, included a number of DOC and prison monitors, correctional administrators, state and federal policymakers, human rights advocates, prisoners' rights attorneys and journalists.
- Throughout 2005 and early 2006, PLN Associate Editor Alex Friedmann advocated for reform of Tennessee's disenfranchisement law affecting the voting rights of ex-offenders. Disenfranchisement reforms were enacted and went into effect in June 2006. However, due to problems caused by the new law, Alex is working with the Tennessee ACLU to further improve the process for restoration of voting rights for former prisoners.
- PLN worked and continues to work with the Prison Policy Initiative to develop and distribute a resource listing for prisoners both online and in print.
- As National Jailhouse Lawyer co-Vice President of the NLG and as a member of the advisory board of Stop Prisoner Rape, Paul Wright advocated for the rights of prisoners within the progressive legal community and specifically on the topic of sexual assaults in prisons and jails.
- In an ongoing project with Trial Lawyers for Public Justice, PLN staff worked to identify cases where prisoners have been seriously injured, sexually assaulted or killed by private prison companies, with the goal being to litigate the private prison industry out of existence. In this fiscal year the initial results were a class

action suit filed against Corrections Corporation of America in Colorado by Washington prisoners injured in a riot. There were also individual suits by prisoners injured in that same riot, a woman arrestee who miscarried in a Delaware prison after being denied medical care by Correctional Medical Services, and several other cases in Florida and Texas.

- As Vice President of the Private Corrections Institute, Alex Friedmann continued his activism and advocacy against the for-profit private prison industry.
- Throughout 2006 PLN was part of a coalition of groups in Vermont, including the ACLU, Public Defenders office and Alliance for Prison Justice, which successfully defeated legislation proposed by Governor Jim Douglas which would have instituted the civil commitment of sex offenders who have completed their sentences.

PLN staff also fielded numerous calls from journalists, participated in radio shows, provided quotes to media sources, and made referrals to other criminal justice agencies and attorneys. We responded to over 2,000 requests for information and assistance from prisoners on matters unrelated to their PLN subscriptions, and provided information and numerous referrals to friends and family members of prisoners who contacted us.

PLN – Litigation and Related Activities

During fiscal year 2005-2006 PLN continued to aggressively protect both our legal rights and those of our subscribers and writers, often when PLN's publications were censored by prisons and jails. PLN also filed a number of amicus briefs in support of cases involving prisoners' rights, and sought public records from government agencies. Over the past year PLN's litigation activities included the following:

- *PLN v. Simmons*. This case involves the Kansas DOC's ban on gift subscriptions for prisoners and the denial of due process notice to publishers when a publication is censored, which materially affects people's ability to purchase PLN subscriptions for prisoners. The Court granted defendants summary judgment based on qualified immunity; the case is set for trial in February 2007 after a remand from the Court of Appeals for the 10th Circuit. The case was filed in 2002. PLN is represented by the law offices of Bruce Plenk.
- *PLN v. Lappin*. This suit involves PLN's Freedom of Information Act (FOIA) suit against the Bureau of Prisons. The BOP demanded that PLN pay a large sum before it would produce public records related to settlements and payouts in lawsuits filed against the department. The suit was filed in September 2005 and summary judgment was granted in PLN's favor in June 2006. The court later awarded PLN's attorneys \$48,000 in fees. We are still waiting for the documents. PLN is represented by the law offices of Klimaski and Associates.

- *PLN v. Haun*. This case was filed in 1997. It challenges the Utah DOC's ban on standard mail sent by non-profits. Since PLN issues are sent as standard mail, this rule affects our subscribers' ability to receive their subscriptions. After the suit was filed the Utah DOC changed its policy; the remaining issue is PLN's entitlement to damages and attorney fees. While the case was pending the judge assigned to it died. It was reassigned to a new judge who promptly dismissed it under the Prison Litigation Reform Act. The case is presently on appeal to the Tenth Circuit on the basis that the PLRA does not apply to non-prisoners, and is still pending. PLN is represented by the Utah Civil Rights Clinic.
- *PLN v. Lehman*. This suit was filed against the Washington Department of Corrections in 2001 challenging their ban on standard rate mail sent by non-profits to prisoners, the censorship of court rulings, the censorship of catalogs and the lack of due process to the publisher when publications are censored. The trial court, in a published opinion, granted summary judgment to PLN and enjoined the ban on non-profit mail and catalogs and ordered that publishers be given notice when their mail to Washington prisoners is censored. The Ninth Circuit Court of Appeals, in a published case, affirmed the lower court injunction. Rather than try the claims involving the censorship of court rulings, the Washington DOC settled the case in August 2005 for damages and attorney fees; the injunctions remain intact and in effect. PLN was represented by McDonald, Hogue and Bayless.
- *PLN v. Crosby*. This case involved the Florida DOC's censorship of PLN and its discipline of a PLN writer who was sanctioned for receiving payment for work done for PLN (writer pay issue). PLN lost the case at a bench trial in August 2005, incurring substantial costs in our efforts to protect our rights against censorship and our writer's right not to be subjected to institutional discipline for writing for PLN. The dismissal of the case was affirmed on appeal in October 2006, in an unpublished decision by the 11th Circuit Court of Appeals. PLN was represented by the Florida Justice Institute and Gendler and Mann.
- *PLN v. WA DOC*. PLN filed this lawsuit in 2000 seeking disclosure of records about the medical neglect of Washington prisoners and the identities of medical staff disciplined for the death or serious injury of Washington prisoners. The Washington Department of Corrections has refused to provide these records to PLN except in heavily redacted form. PLN lost in the trial court and state appeals court before winning a resounding 6-3 victory in the Washington state Supreme Court ordering disclosure of the records in July 2005. The state has provided most of the originally censored records but has admitted destroying 19 of the requested records while the litigation was ongoing. The case is still pending with the issue of penalties and attorney fees outstanding. PLN is represented by Davis, Wright and Tremaine.

- *PLN v. Geo Group*. In December 2005, PLN sued the Geo Group (FKA Wackenhut Corrections) under Florida's public records law seeking information on all lawsuit payments made by the company over a multi-year period and any sanctions the company has faced for misconduct. That case is still pending. PLN is represented by the Law Offices of Frank Kreidler.
- *PLN v. Cheshire*. In December 2004, PLN filed suit against the Cache County jail in Utah challenging its policy prohibiting all prisoners from receiving books or magazines from publishers. The case was dismissed in 2006 and PLN has appealed to the 10th Circuit Court of Appeals. PLN is represented by the Utah Legal Clinic.
- In September 2005, PLN sent a lengthy demand letter to the California Department of Corrections challenging numerous aspects of the Department's mail censorship practices and policies that had resulted in numerous instances of censorship of PLN and the books it distributes, plus its catalogs and renewal notices. In December 2006 the parties reached a settlement resolving the bulk of the issues. A complaint will be filed in federal court in early 2007 and the issue of attorney fees will be litigated. In addition to revamping its mail rules, the CDC also agreed to purchase a five-year subscription to PLN for all 217 of its prison law libraries.

PLN's other litigation-related activities over the past year included sending a number of demand letters to individual prisons and jails regarding censorship issues in Montana, Minnesota, Michigan, Kentucky, Washington and Louisiana, all of which resulted in policy changes and resolution of the censorship problems complained of. Demand letters complaining of censorship practices in Utah, Massachusetts and Colorado did not resolve those issues and PLN is in the process of filing legal challenges. PLN also filed a number of public records acts requests to obtain public documents.

Further, PLN filed amicus briefs in several United States Supreme Court cases on behalf of prisoner plaintiffs, including: *Beard v. Banks* (decided by the Supreme Court in June 2006) concerned the restriction of publications in long term control units. *Goodman v. Georgia* (decided in favor of the prisoner plaintiffs in January 2006) involved the right of disabled prisoners to sue for money damages. *Woodford v. Ngo* (decided by the Supreme Court in June 2006) involved administrative exhaustion of remedies under the Prison Litigation Reform Act. *Jones v. Bock* (decided by the Supreme Court in favor of the prisoner plaintiffs in January 2007) involved administrative exhaustion under the Prison Litigation Reform Act.

PLN also filed an amicus brief in *Williams v. Donald*, a lawsuit filed in federal court by a Georgia prisoner challenging the Georgia DOC's ban on internet generated mail. In late 2006 a magistrate judge issued a recommendation that the policy be enjoined as unconstitutional. The district court judge has not yet ruled on the case.

PLN editor Paul Wright regularly fields calls from lawyers seeking advice and information on prison and jail-related cases. PLN also regularly provides referrals to prisoners and their family members who need post conviction and civil rights counsel.

PLN – Finances

In addition to PLN's financial statements included below, PLN wishes to specifically acknowledge the following grants received during fiscal year 2005-2006, which helped to make the above accomplishments possible:

- Open Society Institute, \$100,000.00
- Southern Poverty law Center, \$15,000.00
- Funding Exchange, \$10,000.00

PLN received \$59,855.04 in advertising income, \$39,780.90 in book sales and \$301,007.18 in subscription and donation income aside from the grants noted above.

PLN's expenses for this period included \$44,192.00 in office overhead, \$204,000.00 in payroll and benefits, \$44,000.00 in postage and \$49,000.00 in printing costs.

PLN – Miscellaneous

Grants from the Open Society Institute were instrumental in allowing PLN to hire Alex Friedmann as Associate Editor and provide living wages and benefits to PLN's other employees, as well as funding PLN's subscription outreach efforts and improving the overall content of the magazine. PLN and PLN staff received notable attention in the media during the past year, including:

- In June 2006, the Columbia University School of Journalism's magazine, the *New York Review of Magazines*, did a feature story on PLN editor Paul Wright and Prison Legal News titled, *The Outside Story: An Ex-Con's Legal Magazine Fights for Prisoners' Rights*.
- In July 2006, *High Times* magazine named Paul Wright its "Freedom Fighter of the Month" for his work on behalf of the incarcerated.

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