

PRESS RELEASE

Human Rights Defense Center
For Immediate Release

September 3, 2021



HRDC Wins Appeal Against Prison Medical Contractor Wellpath in Public Records Suit

VERMONT – The Human Rights Defense Center (HRDC) has won an appeal filed in the Vermont Supreme Court to enforce the Vermont Public Records Act (PRA). The opinion, issued on September 3rd, determined that the private medical contractor Wellpath LLC is subject to the PRA. The Supreme Court concluded that Wellpath became an “instrumentality” of the Vermont Department of Corrections (DOC) when it entered into a contract to procure and provide medical care to all state-incarcerated individuals. As such, Wellpath is considered a public entity and subject to the provisions of the PRA.

Wellpath LLC, formerly known as Correct Care Solutions, was the medical contractor for all DOC facilities from 2010-2015. During this time, the company was paid more than \$91 million for its comprehensive services including medical assessments, primary medical, dental and mental-health care, OBGYN services, and substance-abuse treatment.

HRDC publishes two monthly magazines, *Prison Legal News* (PLN) and *Criminal Legal News* (CLN), which report extensively on the inadequate healthcare and inhumane living conditions found in jails and prisons across the country. HRDC has consistently requested records concerning these topics under different states’ public records laws. The original lawsuit, filed in the Vermont Superior Court, alleged Wellpath violated the PRA by denying two public records requests for all claims, lawsuits, and settlements filed during the time it served as the private medical contractor for the DOC.

HRDC argued that Wellpath was the “functional equivalent” of a public agency—and therefore subject to the PRA—since it provided medical services on behalf of the state. The trial court ruled in favor of Wellpath, asserting that it is not a public agency because healthcare is not a governmental function. On Friday, the Vermont Supreme Court reversed this decision, stating that “providing medical care to incarcerated persons is a quintessential governmental function” and that “it is precisely the delivery of those services within the correctional context which renders them uniquely governmental in nature.” The Court’s decision declined to reach the functional equivalency question, but instead found that Wellpath became an “instrumentality” of the State.

“We are thrilled that the Court vindicated the public’s right to know how its government is functioning, even when it has hired a private company to do its job,” noted HRDC General Counsel Daniel Marshall.

Local counsel, Robert Appel, expressed relief that once again our Supreme Court has held that the PRA is a fundamental tenet of our democratic model as expressed both in the Vermont Constitution and the Act itself and must be read broadly to fully effectuate its purposes.

HRDC is seeking immediate release of the documents originally requested in 2015 and then again in 2017, as well as attorneys’ fees and costs.

HRDC is represented by Vermont attorney Robert Appel as well as HRDC General Counsel Daniel Marshall.

The case is *Human Rights Defense Center v. Correct Care Solutions, LLC*, Vermont Supreme Court case no. 2020-308.

The Human Rights Defense Center, founded in 1990 and based in Lake Worth Beach, Florida, is a non-profit organization dedicated to protecting human rights in U.S. detention facilities. HRDC publishes *Prison Legal News* and *Criminal Legal News*, two monthly magazines that provide reports, reviews and analysis of court rulings and news related to prisoners' rights and criminal justice issues. HRDC's magazines have thousands of subscribers nationwide, and HRDC operates a website (www.prisonlegalnews.org) that includes a comprehensive database of prison and jail-related articles, news reports, court rulings, verdicts, settlements, and related documents.

For further information, please contact:

Paul Wright, Executive Director
Human Rights Defense Center
(516) 360-2523
pwright@prisonlegalnews.org

Daniel Marshall, General Counsel
Human Rights Defense Center
(561) 360-2523
dmarshall@humanrightsdefensecenter.org

Robert Appel, Esq.
(802) 595-1544
robert@robertappellaw.com