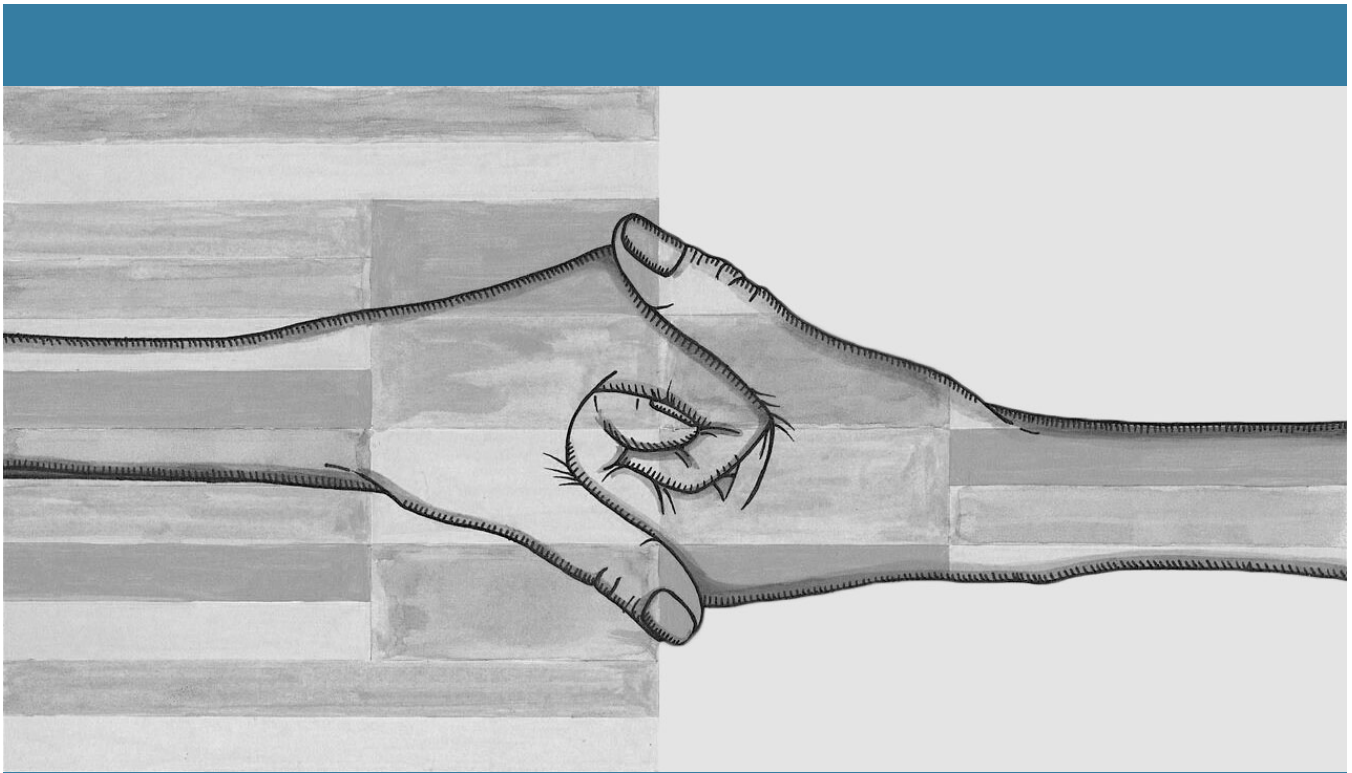




OUT OF SIGHT
NOT OUT OF MIND

||| PENNSYLVANIA
INSTITUTIONAL LAW
||| PROJECT

2018
Annual Report



Everyone deserves to live with basic human dignity, free from the fear of physical abuse, medical neglect, retaliation, and loss of contact with their loved ones. The United States incarcerates more people than any other country in the world, with over 2 million behind bars.

What happens to them once they are in prison?

**WE FIGHT FOR THE CIVIL AND
CONSTITUTIONAL RIGHTS OF PEOPLE
INCARCERATED AND INSTITUTIONALIZED
IN PENNSYLVANIA**

A YEAR OF GROWTH AND FORWARD MOVEMENT

When I started with the Pennsylvania Institutional Law Project (PILP), there were very few staff working around the clock to counter the myriad violations of the civil rights of people incarcerated in our state. As the only legal aid organization with the specific mission of working on civil and constitutional rights violations in our Pennsylvania prison system, there were thousands of people in dire need of our assistance.

Now in 2018, some things have changed and many unfortunately remain the same. There are still an incredible number of abuses against people held in Pennsylvania prisons and institutions with approximately 15,000 people seeking our assistance in the past year. PILP is still the only legal aid organization whose sole purpose is to advocate for the civil rights of incarcerated people in our state.

In response to these challenges I am proud to report that our organization has also grown our capacity, expanded the resources we provide, and are winning landmark cases for our clients. Our staff has grown with paralegal Julianna Brown joining our Pittsburgh office and Rebecca Susman shifting roles to become our first communications and development manager. Jim Davy is our first staff attorney in the Lewisburg office in seven years, and we welcomed Penn Law Public Interest Fellow Matthew Feldman in our Philadelphia office.

Additionally we debuted a new website with updated resources and news (pailp.org). Our cases are successfully moving forward with huge wins for our clients — thousands of incarcerated people will now have access to life saving medical care and pregnant women will no longer be held in solitary confinement.

This next year is going to be even busier as we continue to fight for prisoners fundamental rights. We are suing the Pennsylvania Department of Corrections over their new legal mail policy, representing a migrant woman who was sexually assaulted while in custody at ICE's Berks facility, engaging in public education and advocacy, and much more.

Thank you for supporting the rights of our community members behind bars. All of our services are free of charge to our clients and it takes all of us to ensure that the most vulnerable people who are incarcerated out of sight retain their basic human rights.

Sincerely,

Angus Love, Executive Director

P.S. A personal highlight of the year was meeting Malcolm Jenkins, defensive back for the Philadelphia Eagles and an outspoken advocate for prison reform.





Each of us puts our heart into this work. Stephanie speaks with hundreds of people in prisons throughout the state who call for our assistance and really is “the glue that holds everything together”.

To: Ms. STEPHANIE THOMAS.

GODBLESS. ALLOW ME TO RE-INTRODUCE MYSELF. My NAME IS GERALD ANDREWS A.K.A. KASH. ABOUT A WEEK OR SO AGO I CALLED YOUR OFFICE. I ASKED YOU FOR SOME INFORMATION, IN WHICH YOU REPLIED, “I’M JUST THE OFFICE MANAGER!”. JUST AN OFFICE MANAGER YOU SAY?.. Ms. Stephanie, you’re probably the glue that holds everything together 😊. You keep the day-to-day activities & business running smooth & on all four cylinders. You’re the first person who comes in contact with those who call, who are desperate for help & answers. When I called, you said you’d relay my message, then asked for my name & #. Because of you, I received information that greatly help me in my civil claim. So you see Ms Stephanie Thomas, you are more than just a “Office Manager,” you’re the first step to help between the caller & the assistance PILP provides. I JUST WANNA SAY, “THANK YOU 😊”, AND “KEEP UP THE GOOD WORK” 😊.

GODBLESS.
Gerald Andrews

“ Because of you, I received information that greatly help[ed] me in my civil claim. So you see Ms. Stephanie Thomas, you are more than just a ‘Office Manager’ ”



Re-Entry & Self-Help

PILP considers it crucial that incarcerated people are prepared for their eventual re-entry to society, and PILP is proud to be deeply involved in efforts to ensure that our clients have the tools and resources needed to lead productive lives and avoid the risk of recidivism.

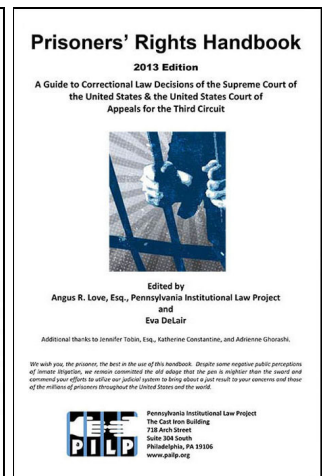
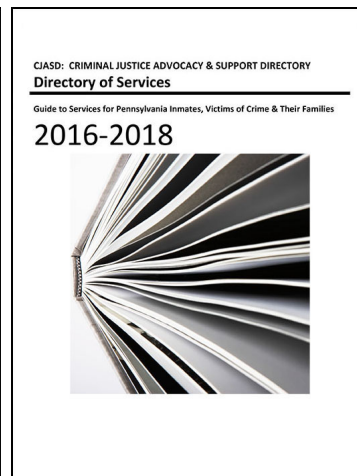
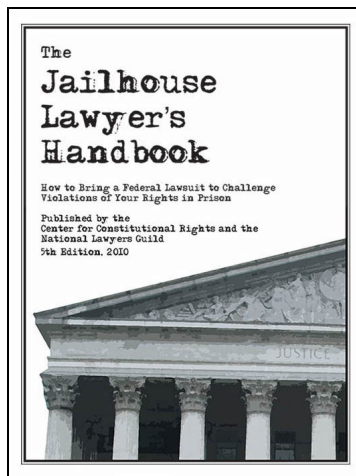
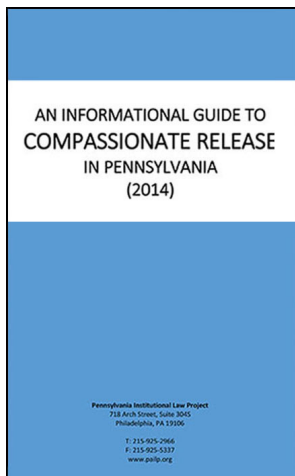
Family Visitation and Custody

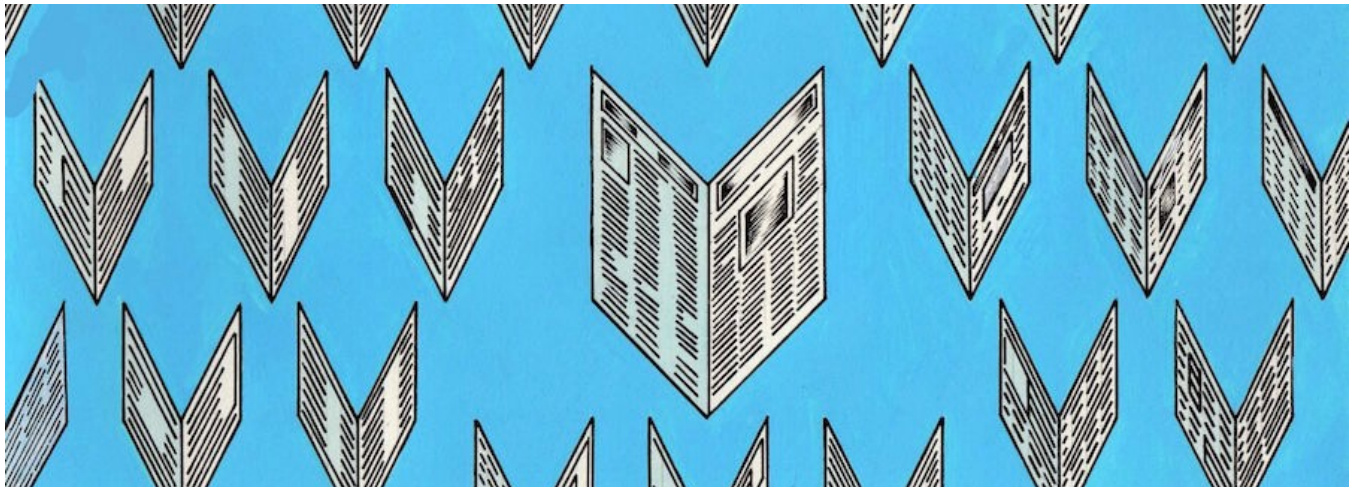
Through our advocacy for incarcerated parents, we work to strengthen the support networks that people who are newly released from prison often rely on.

Self-Help Materials

In addition to litigation, PILP assists thousands of prisoners every year by providing self-help materials that empower the individual in an alienating system. Some of these materials can be viewed and downloaded on our website: pailp.org/resources

A selection of the publications we provide free of charge:





LEGAL HIGHLIGHTS AND HEADLINES: Challenging the inhumane treatment of incarcerated people



Challenging the new PA DOC Legal Mail policy that violates attorney/client confidentiality

By Alexandra Morgan-Kurtz, Staff Attorney

In August, the Pennsylvania Department of Corrections began a two-week emergency lockdown of all facilities in the state due to concerns regarding dangerous substances supposedly sickening staff. In the aftermath of the lockdown, the DOC implemented several new policies that further isolate and dehumanize people incarcerated with their prisons, preventing people from interacting with family and attorneys. Some of these policies, such as a book and publication ban, have been rescinded due to public outcry organized by our community partners. However, the DOC refused to alter its new legal mail policy, which obliterates attorney-client confidentiality by copying every piece of legal mail and confiscating the original. In accordance with their ethical duties as attorneys to protect confidential communications, PILP, the Amistad Law Project, ACLU of PA and Abolitionist Law Center, as well as public defenders across the state were forced to stop sending legal mail to their incarcerated clients. As a result, these organizations have joined together in a lawsuit challenging the new legal mail policy. The case as well as a companion case on behalf of Mr. Davon Hayes, incarcerated at SCI Smithfield, has been placed on an expedited discovery schedule with a preliminary injunction hearing scheduled for February 2019.

NEWS

5,000 inmates with hepatitis C sued Pa. prisons. Now, they're on their way to getting treatment

by Samantha Melamed, Updated: November 20, 2018



DAVID SWANSON / FILE PHOTOGRAPH



A landmark ruling for universal access to treatment in Hepatitis C class action case Chimenti v. Pa DOC

By Su Ming Yeh, Deputy Director

PILP, along with David Rudovsky with Kairys, Rudovsky, Messing, Feinberg, and Lin LLP and Dechert LLP, have reached a landmark settlement that will provide potentially life-saving medical treatment to thousands of individuals incarcerated in the Pennsylvania Department of Correction's (DOC). The legal team brought a class action challenging the DOC's policy and practices in treating prisoners with chronic Hepatitis C. In 2013, a new medical treatment called Direct-Acting Antivirals (DAAs) with a 95% success rate was approved by the FDA, but initially cost about \$100,000 for a course of treatment. Although under the U.S. Constitution, a prison may not deny care for non-medical reasons (such as cost), the DOC ceased all treatment of Hepatitis C, and then slowly began treating only a trickle of prisoners after litigation was brought under a still-restrictive medical policy. In the meanwhile, the cost of the medications also began to drop.

After intense litigation, the Court (Judge John Padova) granted class certification and denied the DOC Defendants' motion for summary judgment. The parties then entered into negotiations, including a settlement conference before Magistrate Judge Timothy Rice, and to their credit, the DOC agreed to provide what essentially will be universal treatment for all individuals with chronic Hepatitis C in its custody over the course of the next 3.5 years. This settlement has been preliminarily approved by the Court, and a hearing for final approval is set for February 2019.

Access to Medical Care: Removing the ‘One Good Eye’ Policy

The ‘One Good Eye’ policy: This policy stated that incarcerated people are not guaranteed binocular vision. If a person had a successful cataract surgery on one eye and the other eye starts to deteriorate, there is no right to having the other eye corrected

Hollihan v. Pa DOC

After being continually denied cataract surgery on his second eye, Richard Hollihan filed this class action challenging the ‘One Good Eye’ policy. The lawsuit alleged that the state systematically denied care to people with serious eye conditions, including severe cataracts, causing partial or total blindness. Mr. Hollihan received cataract surgery on one eye in 2001 and doctors had been recommending surgery on his second eye since he was transferred to the State Correctional Institution at Somerset in 2008. He had difficulty reading, and frequently walked into people and objects. The Pennsylvania Institutional Law Project was assisted by Thomas Schmidt of The Law Firm of Pepper Hamilton, and David Rudovsky, Esq.

Result: After a strong opinion by Chief Judge Connor, a settlement was reached with the DOC agreeing to abandon the policy, provide the necessary medical treatment, and pay \$320,000 in fees and damages to Hollihan.

Conditions of Confinement

Arison v. Fayette County

A prison built in 1889 is still in use today. Over the past several years, PILP has investigated the conditions at Fayette County Jail, including reports of serious pest infestations, mold, exposed wiring, repeated sewage back-ups into cells, lack of running water, and extreme temperature fluctuations during the winter and summer months. The union representing the prison guards filed a complaint with the United States Department of Justice in 2016 requesting an investigation of unconstitutional conditions, including unsanitary medical facilities, structural problems with the building, overcrowding, and inadequate out-of-cell and exercise time for prisoners. In 2017, a company hired by Fayette County to assess the prison found that the “prison is of such poor design and condition, it should no longer be used for the housing of inmates.” In 2018, PILP, along with the ACLU of Pennsylvania and Blank Rome LLP filed a class action in the United States District Court for the Western District of Pennsylvania challenging the cruel and inhumane conditions at the Prison. Shortly after the lawsuit was filed, the County announced the acquisition of property to be used to build a new jail. In the interim, the parties are discussing alternatives to reduce overcrowding and substantially improve conditions at the prison.

The Rights of Pregnant Women in Prison



Remlinger v. Lebanon County

Athena Remlinger was formerly incarcerated at Lebanon County Prison during her pregnancy. She was placed in solitary confinement, forced to have her labor induced two weeks prior to her due date for purely administrative reasons, and shackled her throughout labor and post-partum recovery. Pennsylvania is one of twenty-one states with a law specifically forbidding the unnecessary, demeaning and dangerous practice of shackling pregnant women during labor. Despite this, Ms. Remlinger was shackled to her bed throughout labor until complications occurred necessitating an emergency caesarean section. She was again shackled immediately after delivery and throughout her five day post-partum hospital stay for injuries that occurred during childbirth. In May of this year PILP, assisted by David Rudovsky, filed a lawsuit challenging the inhumane treatment Ms. Remlinger endured. The case is currently pending.

Seitz v. Allegheny

Five women challenged Allegheny County Jail's practice of housing pregnant women incarcerated in the facility in solitary confinement. Four of the women spent time ranging from six to twenty-two days in solitary confinement. The women were represented by the Pennsylvania Institutional Law Project, the Abolitionist Law Center, the American Civil Liberties Union of Pennsylvania, and the law firm of Reed Smith LLP.

Result: Allegheny County settled the lawsuit in December. The jail has ceased this practice and implemented one of the most comprehensive policies for pregnant prisoners in the country.

Transgender Rights

Over the past year, PILP has worked with a number of transgender and gender non-conforming individuals imprisoned by the Pennsylvania Department of Corrections in facilities by their assigned gender at birth. These individuals are encountering a variety of issues including safety concerns, denial of necessary gender appropriate commissary items and lack of adequate medical care. In May of this year, PILP sent a demand letter to the DOC on behalf of one gender non-conforming individual experiencing significant difficulties obtaining consistent and appropriate hormone therapy.

Result: In response to PILP's demand letter and related advocacy, this individual has now received hormone therapy in line with the WPATH standards of care.

Sexual Assault at Berks ICE Facility

E.D. v. Sharkey

This is federal civil rights case brought by E.D., a Honduran asylum seeker and domestic abuse survivor who was detained at ICE's Berks Family Residential Center with her toddler son. While there, she was repeatedly sexually assaulted by Correctional Officer Markley, who was later convicted of sexual assault and sent to prison. The Pennsylvania Institutional Law Project has filed a lawsuit against the guard [Sharkey], ICE and Berks County personnel that operate the facility, and Berks County for their failure to have a license to operate the facility. Summary judgement motions were recently denied and defendants appealed the denial of qualified immunity. We await a decision by the US Court of Appeals for the 3rd Circuit. PILP is assisted by Matthew Archambeault, Esq. The New York Times recently published a piece on our client E.D. and this case.

Visitation Rights Regardless of Marital Status

Woods v. Marler

This case challenged the visitation policy at the Federal Detention Center in Philadelphia. Because the policy barred non-relatives to visit pretrial detainees, children whose parents were not married could not have their non-incarcerated parent accompany them into the facility—which, for many minor children, effectively prevented them from visiting their incarcerated parent.

Result: a policy change allows each detainee to add a non-relative to visitation, which has increased visitation between pretrial detainees and their minor children.



Human Rights Violations in the Special Management Unit at the Lewisburg Federal Penitentiary

Richardson v. BOP

Sebastian Richardson was incarcerated in the Special Management Unit at the United States Penitentiary at Lewisburg which forces individuals into double occupancy cells. If the inmate is concerned about potential violence with the cellmate, he can either go into the cell and risk assault, or refuse and be put in 4 point restraints for weeks at a time. Discovery is near completion and dispositive motions are due shortly. PILP is collaborating on the practices and procedures of the Special Management Unit (SMU) at the Lewisburg Penitentiary with the Washington D.C. Lawyer's Committee for Civil Rights and Urban Affairs.

At issue is a punitive restraints policy and harmful cell-assignment practices in the SMU. Initially the Richardson case was assigned to the late Judge Nealon, a John F. Kennedy appointee who summarily dismissed it. An appeal led to a precedential decision from the US Court of Appeals for the Third Circuit, affirming class action certification and remanding the case back to the lower court. "All Things Considered" on National Public Radio (NPR) produced a two-part series on the case. Following the series, a petition drive was launched by the National Religious Campaign against Torture asking former Attorney General Lynch to abandon the practice.

Carvalho v. Bledsoe

This is an individual damage claim that raises the same issues as Richardson above. Mr. Carvalho agreed to accept a cellmate, despite having concerns for his safety. While celled, he was violently assaulted during which a portion of his ear was bitten off.

McCreary v. BOP

This case challenges the common practice of housing incarcerated people with serious mental illnesses at the SMU despite the BOP policy specifying that people with serious mental illness should not be housed in the SMU. The Office of the Inspector General at the Department of Justice denounced the care provided to these inmates at Lewisburg. In response, USP Lewisburg took all mental health inmates off of their prescribed medications and gave them crossword puzzles instead. Additionally, these men are still sent to the SMU. The lawsuit, a collaboration between the Washington Lawyers Committee, Latham & Watkins, and PILP, challenges the wholly inadequate care provided for those men at Lewisburg. NPR's Josh Shapiro featured this case on All Things Considered.

Access to Appropriate Mental Health Care

Hinton v. Mark

In 2009, after receiving news that both a friend and a family member had died, Mr. Hinton notified DOC officials that he was experiencing suicidal thoughts. Despite his history of serious mental illness and multiple suicide attempts, psychological staff only instructed Mr. Hinton to "be cool" over the weekend. After Mr. Hinton attempted to overdose, the DOC then not only disciplined Mr. Hinton for his suicide attempt, but charged him thousands of dollars in costs for his hospital care. Mr. Hinton filed a lawsuit pro se, and PILP undertook representation of Mr. Hinton after the Third Circuit reversed dismissal of his case.

Result: The case was successfully settled with removal of the taking of funds, damages and fees.

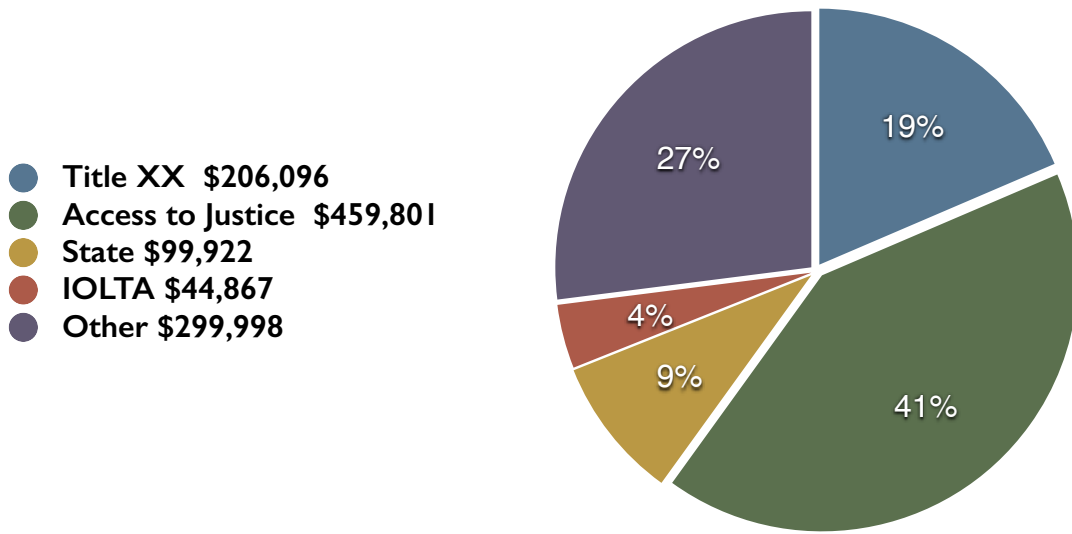
Snider v. Motter

This is a *pro se* case that PILP accepted at the request of Magistrate Judge Schwab regarding Mr. Snider, an individual with severe mental illness. At issue in this case is his treatment at the Clinton County Correctional Facility when he was a pretrial detainee, including the denial of adequate treatment and accommodation for his mental illness disability, and the use of excessive force against him on two separate occasions. The primary incident involves the use of pepper spray on him after he received multiple minor disciplinary infractions for manifestations of his mental illness but posed no danger to himself or others.

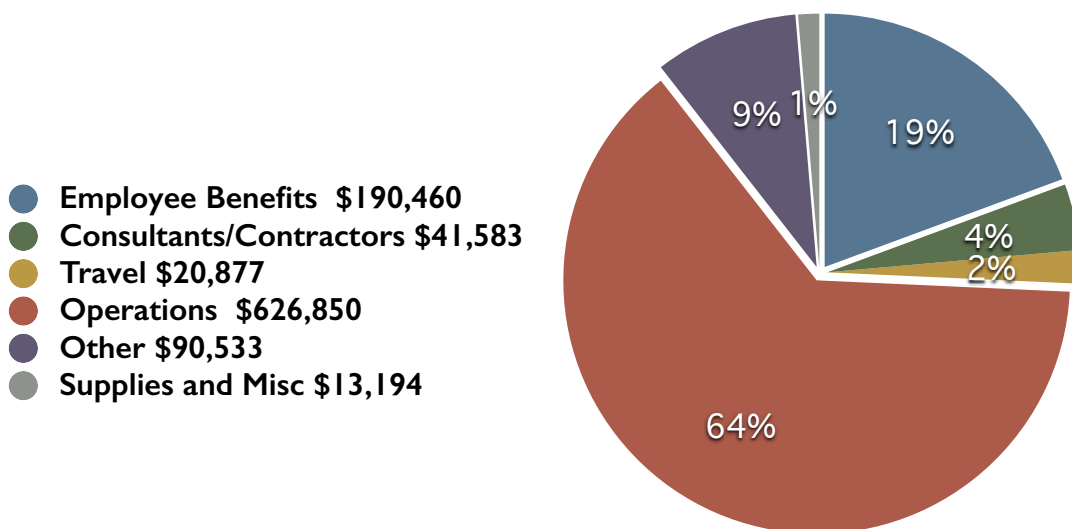
Result: At summary judgment, the Court dismissed the medical claims substantively and the Americans with Disabilities Act claims on statute of limitations grounds. The excessive force claim was successfully settled.

Fiscal Year 2018 - 2019

Revenue \$1,110,684



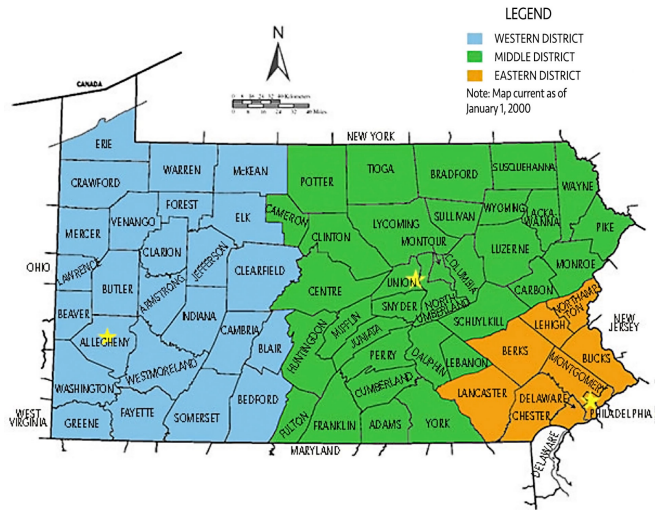
Expenditures \$983,497



STAFF

Philadelphia: Eastern District and Main Office

Angus Love, Esq. — Executive Director
 Su Ming Yeh, Esq. — Deputy Director
 Michael Bailey, Esq. — Staff Attorney
 Stephanie Thomas — Office Manager
 Calysta Xenakes — Legal Assistant
 Matthew Feldman, Esq. — University of Pennsylvania
 Law School Public Interest Fellow



Lewisburg Prison Project: Middle District

Jim Davy, Esq. — Staff Attorney
 David Sprout — Paralegal
 Elayne Sobel — Legal Assistant

Pittsburgh: Western District

Alexandra Morgan-Kurtz, Esq. — Staff Attorney
 Julianna Brown — Paralegal
 Rebecca Susman — Development & Communications Manager



Staff from all three offices at the Prisoners' Advocates Conference in Denver



Philadelphia Office
 (Michael Bailey not pictured)

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From the Executive Director, Angus Love

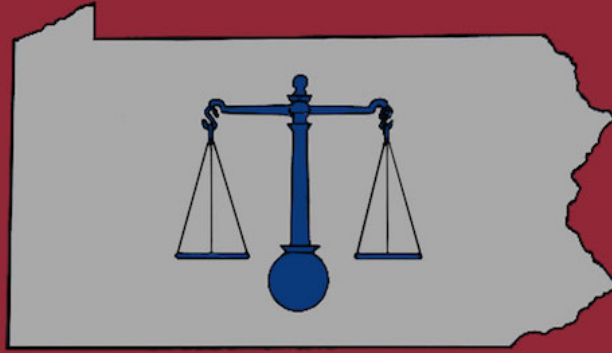
**STUDYING SYSTEMATIC APPROACHES TO
THE OPIOID CRISIS AT HOME AND ABROAD**

A report from the Independence Foundation's
2018 Senior Executive Director Sabbatical

I first set foot in a Pennsylvania Department of Corrections facility, the State Correctional Institute at Graterford, in 1980. At that time there were only 8 such facilities, 8,000 inmates and a budget of just \$200 million. All cells were single occupancy and empty cells abounded so that any defects in one's cell were easily remedied by moving to a vacant cell. Today there are 28 facilities, almost 50,000 inmates and a budget of \$2.5 billion. Almost all cells are double occupancy. The war on drugs was the single biggest factor in the population explosion, often called mass incarceration. Society had decided to criminalize drug use and adopted a zero tolerance approach. Mandatory sentences exacerbated the problem. The drug war had little to no impact on drug use as there was another drug dealer ready to take the place of the fallen entrepreneur. Today's opioid epidemic is living proof of the folly of criminalizing drug use. The recession of 2008 caused the cities, states and federal government to reexamine their approach to criminal justice due to the high cost of incarceration. Some conservative commentators were calling it another failed government program. Liberals urged a medical approach favoring treatment. This is one of the few areas that liberals and conservatives can agree on. Now that many have abandoned the criminalization of drug use, what is next? Local debate centers around safe injection sites and needle exchanges. Meanwhile, small renegade encampments of hard drug users have sprung up in the poorest, most destitute areas of the city. Overdose deaths are commonplace often reaching double figures for a weekend. Narcan, an antidote to heroin overdoses is readily available but can only do so much, especially with drugs laced with super powerful and deadly fentanyl.

This past year, I was very fortunate to be selected to receive a Senior Executive Director Sabbatical courtesy of the Independence Foundation. The theme of my proposal was how other countries are handling the opioid problem. I am glad to report that there are other options in the fight against this deadly epidemic. While we debate safe injection sites, others have moved well beyond this basic concept. Canada, the Netherlands and France have adopted the harm reduction philosophy. It focuses on doing the least harm instead of eradicating the drug problem. This is a much more realistic approach. We know as well as anyone that mass incarceration has been a colossal failure in the war on drugs. For every dealer/user incarcerated, two took their place of the corner. The cost to communities of color and the government have been enormous with little to no return. Now we seem to take the do nothing approach, allowing users to congregate in communities under bridges and in parks, using drugs, living in tents and destroying themselves. Overdose deaths are rampant.

Amsterdam Netherlands has adopted a policy called Gedogan. It bifurcates the problem into soft and hard drugs. Soft drugs such as marijuana are permitted and are readily available in hundreds of coffee shops. Cannabis, hash and edibles are available for anyone over 18 over the counter. The young folks have embraced the culture. Hard drugs are considered a medical problem. Addicts can register if over 35 years old and have a habit of 5 years or longer. They are given free heroin at a clinic. No serious effort is made to wean them off, as it is more of a crime prevention and public health program. Support services are available to those who express an interest. Last year, they had 252 overdose deaths, while Philadelphia had 1217 and the nation had 75,000. Clearly, their approach needs to be given serious consideration.



Support Our Work!

We are the only legal organization dedicated to advocating for the civil and constitutional rights of people incarcerated and institutionalized in Pennsylvania and offer our services at no cost to our clients.

The ability to live without fear of assault and sexual abuse, access to medical and mental health care, and not be subjected to cruel or inhumane living conditions are basic human rights. Together we can ensure that all Pennsylvanians rights are protected.

Please Donate Today to Help Us Advance Our Work Protecting the Rights of Our Community Members Behind Bars.

Donate online at pailp.org/donate

Or, if you prefer to send a check or money order, please mail to:
Pennsylvania Institutional Law Project
The Cast Iron Building
718 Arch Street, Suite 304 South
Philadelphia, PA 19106

The Pennsylvania Institutional Law Project would like to extend gratitude to the Legal Aid Network and special thanks to the following foundations for their generous support and financial contributions:

The Independence Foundation
The Philadelphia Bar Foundation

Sculpture by an unidentified street artist on display
at the MOCO Museum in Amsterdam.
Photographs by Angus Love during his Independence Foundation
Senior Executive Director Sabbatical

