

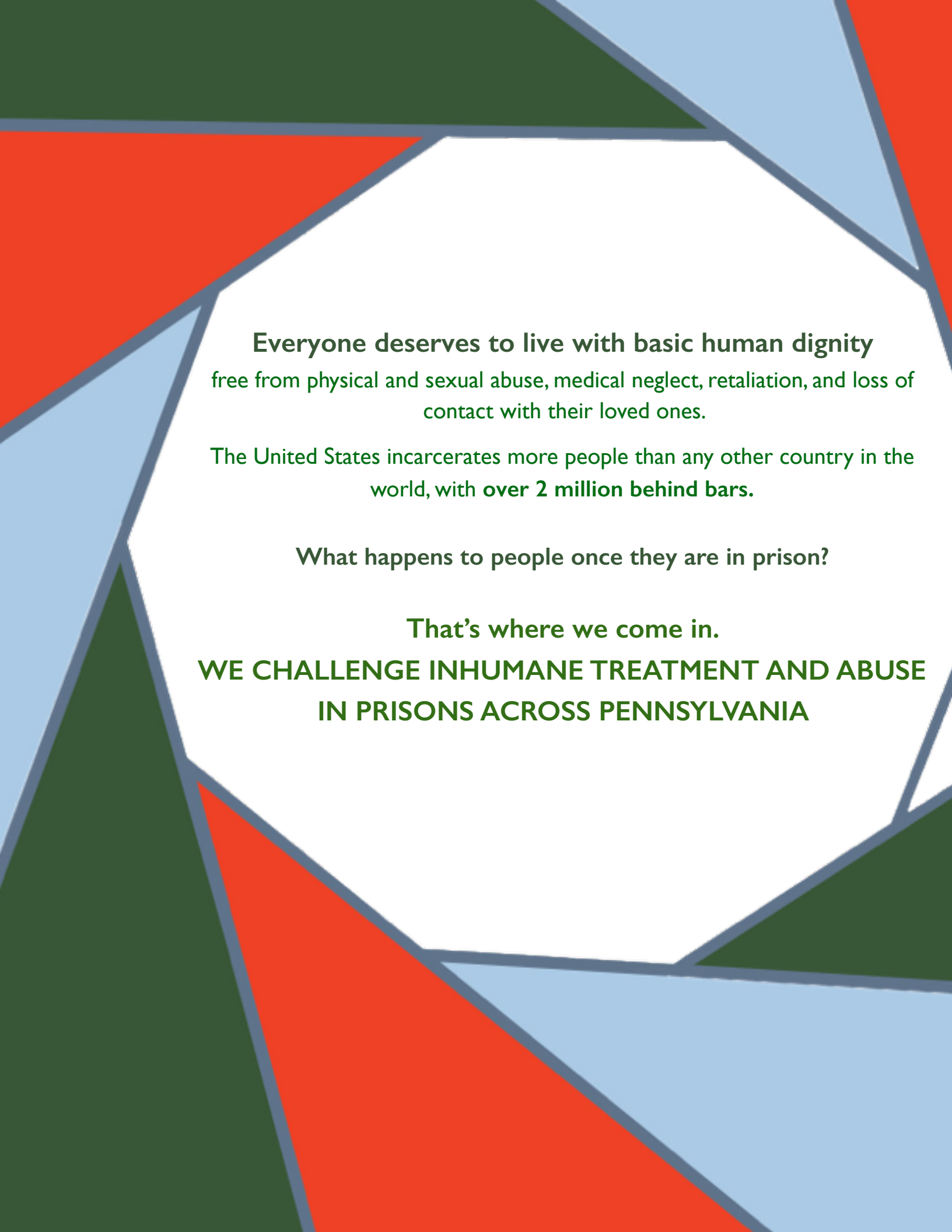
# PENNSYLVANIA INSTITUTIONAL LAW PROJECT

## 2019 ANNUAL REPORT

Statewide provision of hepatitis C treatment • Advocacy for incarcerated sexual assault survivors • Challenged gender discrimination • Fought Death Row use of solitary confinement and retaliation • Protected 1st Amendment rights • Secured constitutional protections at Berk ICE Facility • Helped parents reconnect with their children • Sought for a transgender access to medical care and

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**Everyone deserves to live with basic human dignity**  
free from physical and sexual 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 people once they are in prison?

That's where we come in.

**WE CHALLENGE INHUMANE TREATMENT AND ABUSE  
IN PRISONS ACROSS PENNSYLVANIA**

## ABUSE OF POWER WILL NOT BE TOLERATED.

### How we spent 2019 challenging systemic violations behind bars:

This year has been an exceptional year for the Pennsylvania Institutional Law Project (PILP)! It began with our trial and settlement that halted the PA Department of Correction's new policy of copying all legal mail which eroded attorney/client privilege. The year culminated with winning a jury verdict in our challenge to unconstitutional gender discrimination on behalf of incarcerated women seeking equal access to rehabilitative opportunities available to men.

PILP also represented three sets of clients in the federal appellate court, the U.S. Court of Appeals for the Third Circuit. One resulted in a precedential opinion that immigration detainees at Berks ICE Facility are entitled to the same due process protections as people detained in jails. **This was the first time a court had ruled that detained immigrants are entitled to constitutional rights.** Another case held that a person chained to metal bed in a cold "dry cell" (without water) for multiple days, with a soiled mattress, constant illumination, without toilet paper or way to wash his hand, and wearing only a paper smock, deserved to have his case heard in court.

Over the year, PILP's attorneys and staff have represented and assisted thousands of incarcerated individuals, seeking justice for people who have been assaulted, denied adequate medical care, are unable to see their children, prohibited from practicing their religion in meaningful ways, or subjected to inhumane conditions.

In addition to PILP's attorneys who advocate vigorously on behalf of our clients in court, our dedicated staff members provide invaluable support to the thousands of individuals and their families who write, call, and visit our offices.

For over thirty years we have been fighting and winning against abuse behind bars, changing policy and holding officials accountable for abuse of power. Navigating the prison legal system requires expertise and we provide a lifeline for people behind bars with few resources. In 2019 we won on behalf of transgender people, women who were sexually assaulted, immigrants at the ICE facility, a man on death row put in solitary confinement, and women who were denied the same rights and privileges as the men detained in the same jail, among others.

This year was momentous and we are moving forward in 2020 with a clear vision for justice and advocacy. Thank you for standing with the Pennsylvania Institutional Law Project. **With your support we will continue to fight for human rights, providing free legal assistance, representation, and resources to people who are incarcerated, detained, and institutionalized throughout Pennsylvania.**

Sincerely,



Su Ming Yeh, Deputy Director

P.S. Learn more and support our work for prisoner's rights at [pailp.org/donate](http://pailp.org/donate)!

## FREE RESOURCES FOR EVERYONE

### 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 facilitate their ability to build and strengthen their relationships with their children and family, and to bolster the support systems for people newly released.

### Self-Help Materials

In addition to litigation, PILP assists thousands every year by providing self-help materials that empower incarcerated people to advocate for themselves. Some of these materials can be viewed and downloaded for free on our website: [pailp.org/resources](http://pailp.org/resources)



# ADVOCACY WITH IMPACT

## 2019 LEGAL HIGHLIGHTS



### **Protecting Constitutional Rights for Immigrants Detained at Berks ICE Facility** By Su Ming Yeh, Deputy Director

After fleeing violence and domestic abuse in Honduras, our client, E.D., was detained at the Berks County Residential Center while seeking asylum with her three-year-old son. During her detention at the ICE facility, E.D. was sexually assaulted by immigration staff member Daniel Sharkey. He was ultimately convicted of the institutional sexual assault. Our case, *E.D. v Sharkey*, is against Daniel Sharkey, as well as other Berks County employees who were aware of the ongoing harassment and abuse for their failure to protect E.D.

Affirming the rights of immigrants in ICE detention, the US Court of Appeals for the 3rd Circuit held that **constitutional protections against sexual assault do apply to people detained at the Berks ICE facility**. The Court additionally found that an immigration detainee has the right to be protected by state supervisors and employees who are aware of the risk of a fellow staff member's misconduct.

Notably, the Third Circuit also held for the first time, in a precedential opinion, that “immigration detainees are entitled to the same constitutional protections afforded by the Due Process Clause of the Fourteenth Amendment as pre-trial detainees.”

Trial in this case is scheduled for January 2020. *E.D. v. Sharkey*, 16 Civ. 2750 (E.D. Pa).



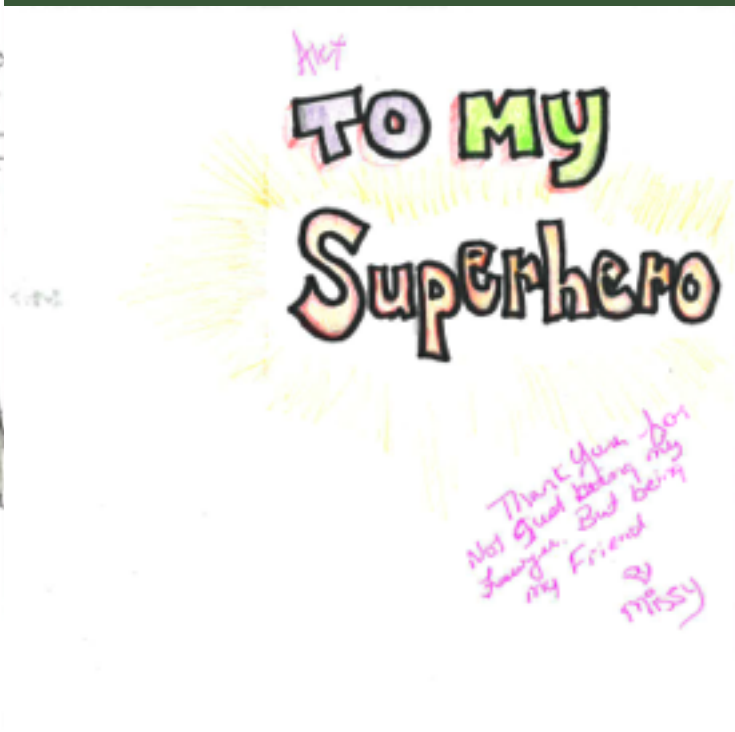
## Bringing #MeToo to SCI Cambridge Springs

By Alexandra Morgan-Kurtz, Managing Attorney

Over the past two years we have been inundated with horrific stories of sexual abuse and harassment in the workplace and in daily life. While our country has begun to listen to women and chastise abusers, prison rape jokes remain rampant. Incarcerated people have the right to be free from sexual assault, but often cannot remove themselves from abusive situations and predators. This year, PILP settled two lawsuits against staff at SCI Cambridge Springs for sexually abusing women, for a total of \$96,700. In both of these lawsuits, women alleged that not only were they sexually abused by correctional officers, but that the administration of SCI Cambridge Springs had created an environment that allowed a culture of sexually harassing behavior to continue. Despite the DOC's stated zero tolerance policy, the corrections officers involved in these incidents were allowed to continue working for the DOC, even after other staff described their behavior towards women as "creepy" and "predatory." As society takes steps to believe women, PILP will continue to fight for the most vulnerable women who have nowhere else to turn. *Bucano v. Austin*, 1:15-cv-0067 (WD PA); *Sarvey v. Wetzel*, 1:16-cv-0157 (WD PA).

We invest in our clients and their wellbeing.

Notes like this mean everything!





## **Holding Berks County Jail Accountable for Gender Discrimination**

**By Matthew Feldman, Staff Attorney**

Women are the most rapidly expanding population in American jails and prisons, yet their needs are frequently ignored, and they are often provided inadequate housing and medical care. PILP challenged gender discrimination at the Berks County Jail System, representing Theresa Bohning (née Victory), Alice Velazquez-Diaz, and a class of all current and future incarcerated women with the lowest custody-level “Trusty” classification. Berks County was housing incarcerated men with Trusty classification in unlocked cells in a separate building known as the Community Reentry Center (“CRC”), while housing the Trusty women in locked cells in the Berks County Jail. The men in the CRC had greater access to phones and showers, far more freedom of movement, better visitation conditions, and more access to furloughs, which allowed them to spend time outside of the jail with their families. Through the CRC program, Berks County had been assisting men’s reentry into their communities for nine years, while denying that assistance to women.

Before trial, the Court ruled that the differences in freedom of movement, access to privileges, and visitation conditions violated the Trusty women’s rights under the Equal Protection Clause. This was a huge victory for incarcerated women nationwide as there have previously been few successful Equal Protection prison cases. Then, on the last business day before trial, the Berks County Commissioners added a twist to the lawsuit. In an apparent attempt to moot our clients’ claim for injunctive relief, the Berks County’s attorneys abruptly filed a notice with the Court, stating that the Commissioners had decided to move all of the men from the CRC to the jail. It was very disappointing that the County Commissioners seemingly prefer to have no reentry center, rather than one open to women.

Ultimately, a jury of eight people unanimously found that Berks County violated the constitutional rights of women incarcerated at the Berks County Jail by denying them the same access to furloughs as men. The same jury also found that Mrs. Bohning had been harmed by Berks County’s discrimination and awarded her compensatory damages. We hope to still obtain an injunction ordering Berks County to treat Trusty men and women and equally. The case is Victory v. Berks County, 5:18-cv-5170 (ED PA).

## Prison tears families apart, PILP helps to reunite them

Our client, Mr. Garwood, is imprisoned six hours away from his family. After he was incarcerated for a number of years he wanted to connect and develop a relationship with his 7 year old daughter. However, he was not on good terms with his daughter's mother and she initially was opposed to permitting any type of contact.

PILP Staff Attorney Michael Bailey represented Mr. Garwood and, while the Judge was not initially willing to order visitation, he did require the daughter see a therapist in preparation for an eventual introduction with Dad. Attorney Bailey agreed to coordinate the counseling and approached the mother after the hearing to organize the logistics. After some discussion, the mother informed Attorney Bailey that the daughter wanted to talk with the father and that she would allow it.

Since then, in addition to phone calls and letters, Mr. Garwood's daughter has visited him at the prison twice—once with her grandfather and another time with the mother herself.

7-13-19  
Dear Mr. Bailey,  
I writing to let you know, of send you of our upcoming Custody hearing on [REDACTED] [REDACTED] Judge [REDACTED]  
[REDACTED]  
To fill you in on the progress being made between myself & [REDACTED] (my daughter) everything has been going really well, I speak to her about 2-3 times a week, and our relationship is growing. [REDACTED] has a phone so I can call her direct, so I'm not only sure how much more I can call for. [REDACTED] has been spending time with my family as well [REDACTED] hasn't been getting in the way of anything, in fact she's been supportive. Again thank you for your help. Sincerely,  
[Signature]



## **PILP & Allies Protect First Amendment Right to Confidential Communication with Attorneys**

PILP's first major victory of the year came in February when, after testimony regarding the paramount importance of confidential legal mail for attorneys and their incarcerated clients, the PA Department of Corrections agreed to settle the lawsuit regarding its' new policy which provided for the confiscation and copying of all legal mail. This settlement preserved the First Amendment right of people incarcerated in the PA DOC to receive confidential communications from their attorneys and allowed for the recovery of significant attorney's fees. PILP litigated this case with Abolitionist Law Center, the American Civil Liberties Union of Pennsylvania, Amistad Law Project, and the law firm of Schnader Harrison Segal & Lewis. *PILP v. Wetzel*, 1:18-cv-2100 (MD PA).



Legal team after their successful day in court.

## **Defending the Safety and Care of Transgender People**

Transgender adults are twice as likely to be incarcerated, and nearly ten times more likely to be sexually assaulted while in prison. These horrific statistics are the lived reality for many and PILP is dedicated to advocating on behalf of transgender people throughout Pennsylvania. This year PILP represented I.Z., who was subjected to an invasive search to determine his gender identity, despite federal regulations that prohibit these searches. During his incarceration, correctional staff not only repeatedly “mis-gendered” him, using female pronouns, but also made appalling transphobic comments and pepper sprayed him while handcuffed in the shower.

PILP litigated the case with co-counsel Blank Rome, LLP, which resulted in a successful settlement for our client. Additionally, correctional staff testified that after I.Z. filed grievances regarding mistreatment, the jail held their first-ever LGBT training. Education is necessary for changes in policy and practice and the persistence of our courageous client was a catalyst for this progress.

## Implementing Hepatitis C Treatment for Thousands

Last year, PILP and the legal team negotiated a class action settlement providing for over 5,000 people in PA state prisons to receive lifesaving Hepatitis C treatment over the course of 3 ½ years. This year, the federal court gave final approval for the settlement. This is **one of the first settlements nationally to essentially provide universal treatment for incarcerated people with chronic Hepatitis C.** PILP and the legal team of David Rudosvky of Kairys, Rudosvksy, Messing, Feinberg, and Lin LLP, and Dechert LLP will continue to monitor and ensure compliance.

During the court settlement approval process, one individual wrote,

*“I don’t think I expressed enough how thankful I am to PILP for getting hep c treatment for all the DOC inmates. It is going to save a lot of lives. You probably will save my husbands [sic] life. I cannot put into words how much that means to me and learning about the success of our lawsuit was a huge stress reliever for me and my husband. Thank you guys for everything you do. It does not go unnoticed.”*

## Ensuring Equality in Religious Freedom

Despite providing baseball caps to all incarcerated men, for over a decade the Pennsylvania Department of Corrections has limited religious headgear to headgear that fits flush to a person's head. This restriction has substantially interfered with the religious practices of a number of less mainstream faith groups, while allowing people of the Islamic and Jewish faiths to respect their religious beliefs. This year **PILP obtained an injunction on behalf of a follower of the Nation of Islam, ordering the DOC to permit Mr. Marshall to purchase and wear the fez that is a central part of his faith.** This is the first court order finding that the DOC's statewide policy violates a person's religious rights.” *Marshall v. Corbett*, 3:13-cv-2961 (MD PA).

## Fighting Solitary Confinement on Death Row

PILP represented a man incarcerated on death row who endured thirty days in solitary confinement due to a prison official deliberately choosing to flout institutional policies and procedures in the belief that he would not be prosecuted. At trial, two of the witnesses provided powerful testimony via video from death row. They attested to the unit manager openly bragging to prisoners that he “taught Robinson a lesson.” PILP’s attorneys argued that the punishment was retaliation and that it caused our client actual harm. Retaliation claims are notoriously difficult to prove, however, due to PILP's advocacy, a jury from rural Western Pennsylvania believed that thirty days in solitary confinement did cause our client actual, substantial harm. The jury ruled in his favor and awarded Mr. Robinson a \$30,001 verdict.

## Snapshot of Lewisburg Federal Penitentiary Litigation

- In August, Judge Manion issued a strong opinion in favor of our client, finding that the former Warden may have acted maliciously when he authorized the continued placement of Mr. Carvalho in restraints for more than 10 days. *Carvalho v. Bledsoe*, 3:11-cv-1995 (MD PA).
- This October, PILP settled a lawsuit on behalf of a man who, despite using a wheelchair for over a decade, was dragged off a transport bus and assaulted when officers claimed he "refused" to walk off the bus. *Collins v. Bledsoe*, 3:11-cv-2244 (MD PA).
- Briefing was filed in *McCreary v. Bureau of Prisons*, 1:17-cv-1011 (MD PA), requesting the Court certify a class of people with serious mental illness imprisoned in the SMU in long-term solitary confinement and subjected to systemic failures to provide adequate mental healthcare. Appreciation to Latham Watkins and the Washington Lawyer's Committee for all of their fantastic work on this vital issue!
- Class certification briefing was also filed in *Richardson v. Kane*, 3:11-cv-2266 (MD PA), describing the pervasive pattern of coercing dangerous cell assignments through the tortuous use of restraints in inhumane conditions. **Our deepest gratitude to the dozen men who joined our client in sharing their stories of the horrors they endured at USP Lewisburg.**

## Pro Bono Spotlight

### Many thanks to our Pro Bono Spotlight partners this year Will Sachse and Cory Ward of Dechert LLP

Merely one week before trial in *Victory v. Berks County* in Philadelphia federal court, Will Sachse and Cory Ward jumped onto the case. They rapidly got up to speed with strategy and preparation in this complicated “tri-furcated” trial, no small feat considering the numerous witnesses and voluminous documents and transcripts. With one day’s notice, Mr. Sachse appeared at the pre-trial conference in open court, while Mr. Ward defended two depositions the week prior to trial which were authorized by a last-minute court order. Sarah Taylor provided invaluable paralegal assistance as well. At trial, the Dechert attorneys worked seamlessly with the PILP legal team to provide top-notch legal representation to the incarcerated women at the Berks County Jail, leading to a jury verdict for PILP’s clients.



PILP is grateful for the continuous support from Dechert over the many years, including from Dechert attorneys Stephen Brown and Christine Levin. Dechert has co-counseled notable cases such as the ongoing class action challenging United States Lewisburg’s dangerous cell assignment and restraints policies (*Richardson v. Bledsoe*), a lawsuit relating to the PA DOC’s failure to provide diagnostic care to a diabetic man leading to preventable blindness (*Chmiel v. DOC*), and the landmark case resulting in the provision of Hepatitis C treatment to thousands of prisoners (*Chimenti v. Pennsylvania DOC*).

### PILP also could not do the work without these other stellar partners:

Mincey Fitzpatrick Ross LLC • Kairys, Rudovsky, Messing, Feinberg & Lin LLP • Blank Rome LLP • Law Office of Matthew Archambeault • K & L Gates LLP • Latham & Watkins LLP • Dechert LLP • Schnader Harrison Segal & Lewis LLP

## Farewell to Our Founder, A Steadfast Advocate for Prisoners

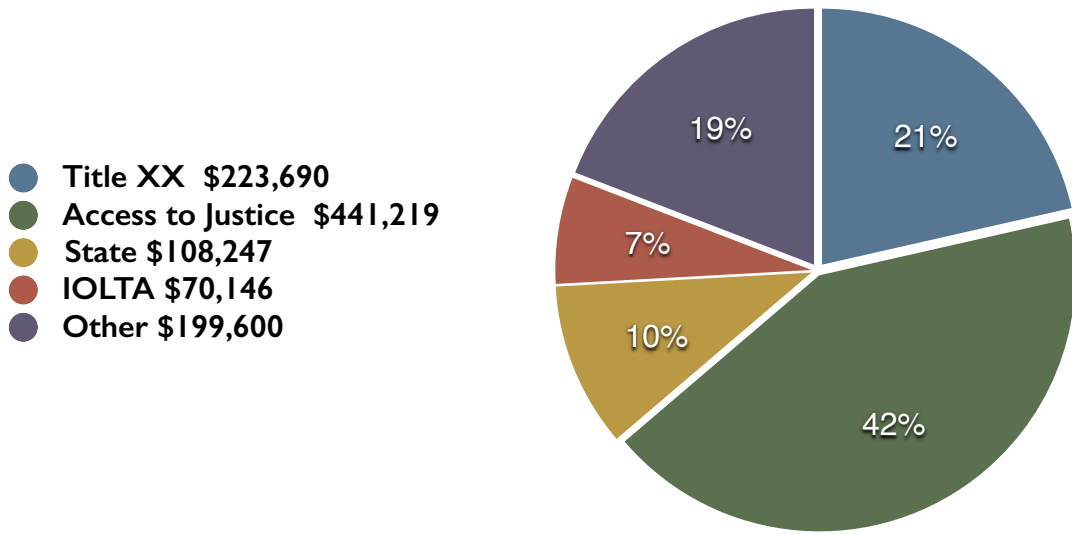
Along with our successes, the year also marks a time of transition. After decades of leadership in criminal justice reform and zealous litigation on behalf of those behind bars, Executive Director Angus Love will be departing the Pennsylvania Institutional Law Project at the end of 2019. He will continue on in a consulting role for the upcoming year.

Angus has been a tireless advocate and true fighter for those often forgotten by society. He grew the organization from a few attorneys into a cohesive state-wide organization, empowering the next generation of attorneys to continue this important work. His cases include the landmark settlement in *Austin v. Pennsylvania Department of Corrections* that reformed the entire Pennsylvania Department of Corrections on multiple fronts, and successful challenges to the denial of dental care to immigration detainees held less than one year, the lack of policies to prevent MRSA at a county jail, outrageously high telephone rates for prisoners, the bar to voter registration to those with felony convictions, and the denial of access to medical care at a halfway house, to name only just a few. Angus Love has made an indelible mark on improving the lives of thousands of incarcerated individuals.

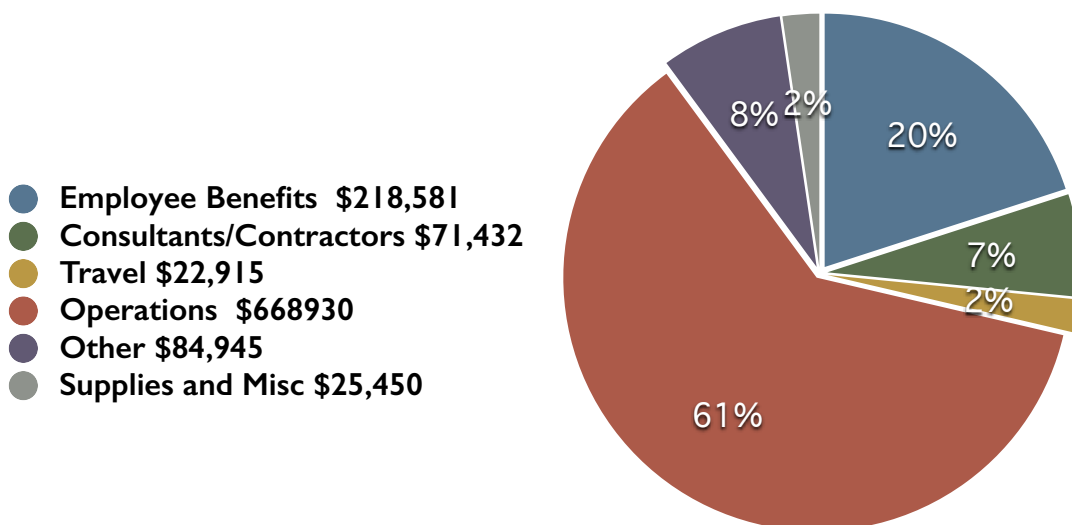


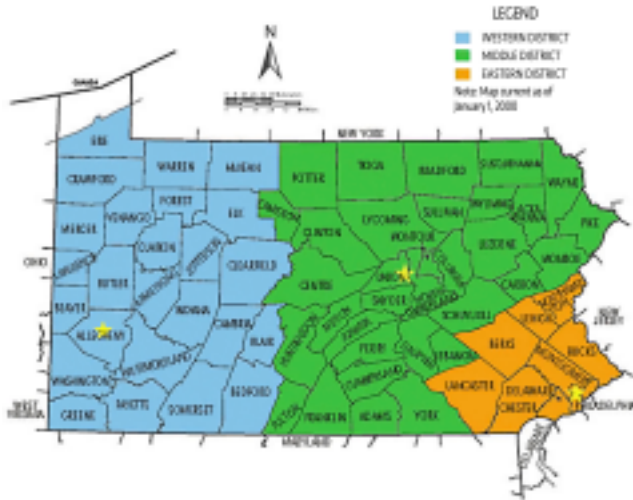
## Fiscal Year 2018 - 2019

Revenue \$1,048,082



Expenditures \$1,092,253





PILP is the only civil legal aid organization for incarcerated people in Pennsylvania.

In 2019 we provided free legal resources, advice, and assistance to 15,000 people incarcerated throughout the entire state in prisons, jails, and ICE facilities.

## STAFF

### PHILADELPHIA: Eastern District and Main Office

Angus Love, Esq. — Executive Director  
 Su Ming Yeh, Esq. — Deputy Director  
 Michael Bailey, Esq. — Staff Attorney  
 Matthew Feldman, Esq. — Staff Attorney  
 Stephanie Thomas — Office Manager  
 Calysta Xenakes — Legal Assistant

### LEWISBURG PRISON PROJECT: Middle District

Amy Ernst, Esq. — Staff Attorney  
 Sierra Shamer — Office Manager and Paralegal  
 Jessica Smith — Paralegal

### PITTSBURGH: Western District

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

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## **Support Our Work!**

The legal system is hard to navigate, especially from prison, but when a person is denied medical care, abused, discriminated against, or punished with solitary confinement it is the only option.

**That's what we do. For over 30 years we've fought and won legal cases and policy changes for incarcerated people.**

The Pennsylvania Institutional Law Project is a nonprofit and the **only civil legal aid organization at the forefront of advocacy for the rights of people incarcerated and institutionalized in Pennsylvania. We provide all of our services at no cost to our clients.**

Court cases, legal fees, experts, office supplies, and dedicated staff all add up and cost \$\$\$.  
**Please donate today and give the gift of free legal resources and advocacy that are a lifeline for people behind bars throughout PA in prisons, jails, and ICE Facilities!**

**Contribute online at [pailp.org/donate](https://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  
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Philadelphia, PA 19106

