

VT SUPERIOR COURT

STATE OF VERMONT
SUPERIOR COURT
CIVIL DIVISION

2018 MAY -7 A 3 10

Washington Unit

Human Rights Defense Center,
a not-for-profit corporation,
Plaintiff

Case No.: 272-S-18Wncv

v.

GEO Group, Inc.,
Defendant.

_____ /

COMPLAINT

I. Introduction

1. This case seeks to vindicate the public's right to know what its government is doing, and to access records showing a private corporation's performance of duties delegated to it by the state of Vermont.
2. The Human Rights Defense Center brings this action against GEO Group, Inc. to enforce Vermont's Public Records Act, enshrined in Vt. Stat. Ann. tit. 1 §315 (2018), *et seq.*

II. Jurisdiction and Venue

3. This Court has jurisdiction to hear public records enforcement actions under Vt. Stat. Ann. tit. 1, § 319(a) (2018).
4. This Court has personal jurisdiction over the defendant because it availed itself of the laws of Vermont, and purposefully directed commercial activities to the State of Vermont.

5. Venue is proper in this Unit because the Public Records Act expressly provides for it.

III. Parties

6. Plaintiff HRDC is a non-profit charitable organization incorporated in the state of Washington, with principal offices in Lake Worth, Florida.
7. Defendant GEO Group, a publicly traded corporation, is incorporated and is based in Florida.
8. When providing for the custody of and care for people committed to the Vermont Department of Corrections by the Vermont judiciary, the defendant stands in the shoes of the Vermont Department of Corrections and is a public agency under the Access to Public Records Act.

IV. Facts

A. Human Rights Defense Center's Background and Mission

9. For more than twenty-seven years, HRDC's mission has been public education, prisoner education, advocacy, and outreach in support of the rights of prisoners and in furtherance of basic human rights.
10. To accomplish its mission, HRDC gathers information from governmental entities around the country and publishes the information in its journals and on its websites.
11. HRDC publishes and distributes books, magazines, and other information containing news and analysis about prisons, jails, and other detention facilities, prisoners' rights, court rulings, management of prison facilities, prison conditions, and other matters pertaining to the rights and interests of incarcerated individuals.
12. HRDC publishes two magazines: *Prison Legal News* and *Criminal Legal News*.

13. *PLN* is a legal journal that reports news and litigation about carceral facilities. *PLN* has published monthly since 1990 and is delivered to over 9,000 people in all 50 states. Based on reader survey results, the estimated actual readership is around ten times that number. *PLN*'s subscribers include lawyers, journalists, judges, courts, public libraries, and universities. *PLN* also maintains a website that receives about 100,000 visitors per month based on site analytics.
14. *CLN* is a legal journal launched in November, 2017. *CLN* reports on criminal law decisions from the states and federal systems, focusing on legal developments affecting the fact and duration of confinement. *CLN* will also cover civil rights litigation against police, prosecutors, and court systems.
15. Through its publishing arm Prison Legal News Publishing, HRDC also publishes books about the criminal justice system and legal issues affecting prisoners.
16. "Human Rights Defense Center" is the subsequent name of the organization "Prison Legal News," the plaintiff in *Prison Legal News v. Corr. Corp. of Am.*, Washington Unit, No. 322-5-13 WNCV, with reported decisions at 2015 Vt. Super. LEXIS 91, 2015 Vt. Super. LEXIS 41, and 2014 Vt. Super. LEXIS 36.

B. GEO Stands in the Shoes of the Department of Corrections

17. The Vermont Department of Corrections is a Vermont agency, 3 V.S.A. § 3081.
18. In addition to the facilities it operates within the state of Vermont, the Vermont Department of Corrections contracts with private corporations and other public bodies to house some offenders out of state.
19. From 2015 until 2017, the Vermont Department of Corrections contracted with GEO Group to house people committed to DOC's custody in GEO Group's North Lake

Correctional Facility in Baldwin, Michigan.

20. For the period of the contract, Vermont inmates were the only occupants of the GEO Group prison in Michigan.
21. For the period of the contract, GEO Group was responsible for the care, treatment, subsistence, and necessary medical care for all people who the Vermont Department of Corrections assigned to it.
22. For the period of the contract, GEO Group was the functional equivalent of the Vermont Department of Corrections for those people it housed in its Michigan facility.

C. The Human Rights Defense Center's Public Records Request

23. As part of its research and reporting activities, on December 15, 2017 HRDC sent a public records request to GEO Group headquarters for the following information:
 - A. Records, regardless of physical form or characteristics, sufficient to show for all claims or lawsuits brought against GEO Group, Inc. and/or any of its agents or employees in connection with your activities performed pursuant to contract with the Vermont Department of Corrections, in which payments of any amount were disbursed from January 1, 2010 to the present:
 - The name of all parties involved;
 - The case or claim number;
 - The jurisdiction in which the case or claim was brought (e.g., US District Court for the District of Vermont, Vermont Superior Court, pre-litigation demand, etc.);
 - The date of resolution;
 - The amount of money involved in the resolution and to whom it was paid,
 - B. For each case or claim detailed above:
 - The complaint or claim form and any amended versions;

- The verdict form, final judgment, order, settlement agreement, consent decree, or other paper that resolved the case or ordered the money be paid.

24. HRDC also requested a copy of all contracts currently in effect between GEO Group and any governmental agency, department, or office in Vermont, including all exhibits and amendments thereto.

25. The request was sent by email to GEO Group's general counsel, John Bulfin, at his publicly available email address, jbulfin@geogroup.com.

26. GEO Group has not responded to HRDC's request.

V. HRDC's Count Against the Defendant

27. Paragraphs 1 – 26 are re-alleged and incorporated as if fully set forth herein.

28. By contracting with the Department of Corrections to house and care for Vermont prisoners, GEO Group is a "public agency" as that term is defined by Vt. Stat. Ann. tit. 1, § 317(b) (2018).

29. The information requested by HRDC are public records, as defined by Vt. Stat. Ann. tit. 1, § 317(b) (2018).

30. By failing to provide HRDC with copies of public records, GEO Group has contravened the Public Records Act.

VI. HRDC's Request for Relief

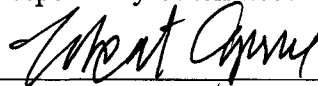
31. HRDC therefore requests that this Court:

- (a) declare that the Defendant is a public agency, as that term is defined in the Public Records Act;

- (b) declare that the records sought are public records;
- (c) declare that the Defendant's continued withholding of the requested records is unlawful;
- (d) order the Defendant to produce the requested records; and
- (e) award HRDC its costs and attorneys' fees reasonably incurred in bringing this action.

Date: 5/3/18

Respectfully Submitted:



Robert Appel, Attorney at Law, PLC
30 Main St., Suite 350
Burlington, VT 05401
Tel: (802) 595-1544
Fax: (802) 881-0379
robert@robertappellaw.com



Deborah M. Golden
Pro Hac Vice motion forthcoming
Human Rights Defense Center
316 F Street NW, #107
Washington, DC 20002
Tel: (202) 543-8100
Mobile: (202) 630-0332
dgolden@humanrightsdefensecenter.org