



June 5, 2024

Richard Spoonemore, Chris Youtz, Ele Hamburger  
Sirianni Youtz Spoonemore Hamburger PLLC  
3101 Western Avenue, Suite 350  
Seattle, WA 98121

*Re: Request for cy pres distribution from Reichert settlement fund*

Dear Rick, Chris, and Ele:

Thank you for considering Public Justice to receive an award of \$2.5 million of *cy pres* funds from the settlement of *Reichert v. Keefe Commissary Network*. We believe our groundbreaking work fighting the financial exploitation of individuals and families impacted by the criminal legal system makes Public Justice the ideal organization to advance the goals of the lawsuit and expand on the underlying issues raised by the class in *Reichert*. We appreciate your consideration.

The settlement your team achieved in *Reichert* is an enormous step forward in using the civil justice system to end the financial exploitation of incarcerated people and their families. Fee-ridden release cards are one of many ways powerful corporate and government actors use system-impacted people as a revenue source. For predatory for-profit businesses and their government partners, the criminal legal system—and the individuals and communities impacted by it—are a source of billions of dollars in annual revenue. Carceral telecom giants backed by private equity monopolize the market for jail and prison video calls, promising kickbacks to jails in exchange for eliminating in-person visitation to drive call revenue. County sheriffs use shady waiver forms to impose “room and board” fees from those released from jail without court review, using the money they collect for their own discretionary slush fund. Private electronic monitoring firms hold pretrial detainees hostage behind bars, insisting their hefty installation and ankle fees be paid before release. And for-profit debt collectors tack on exorbitant fees as they shake down low-income criminal defendants who owe so-called “user fees,” including the cost of the public defenders appointed to represent them based on their demonstrated indigence.

Unless we come together to stop them, these practices will continue to shift wealth out of vulnerable, primarily Black and Brown communities into the pockets of wealthy executives. An organization with the right experience, expertise, and focused strategy—and armed with sufficient resources—can shift the balance toward ending many of these practices.

**Public Justice is the right organization to take this on.** We bring a unique combination of deep expertise fighting profiteers and corrupt government actors in the criminal system; innovative appellate advocacy—all the way to the U.S. Supreme Court—to prevent defendants from using procedural barriers to deny our clients their right to a day in court; and narrative campaign strategies to educate reporters, the public, and lawmakers about what needs to change.

[publicjustice.net](http://publicjustice.net)

**National Headquarters**

1620 L Street NW, Suite 630, Washington DC 20036  
(202) 797-8600 phone • (202) 232-7203 fax

**West Coast Office**

475 14<sup>th</sup> Street, Suite 610, Oakland CA 94612  
(510) 622-8150 phone

With a significant infusion of resources, we will be able to expand our litigation and communications teams, identify and target more profiteers, and spotlight those exploiting individuals, families, and communities through local and national media coverage. Our current resources limit our capacity to have greater impact and build greater momentum for systemic change. A *cy pres* award of \$2.5 million dedicated in support of this body of work would be transformative for the organization and our impact.

### Public Justice's Work Fighting Profiteering in the Criminal Legal System

Public Justice has deep expertise in tackling the precise issues at the heart of the *Reichert* class action in multiple jurisdictions across the country. Our Debtors' Prison Project (DPP) fights to end the criminalization of poverty and shrink the carceral system. Working with allies and impacted communities, we use litigation, advocacy, and education to ensure no one is jailed simply because they can't pay and to stop governments and for-profit corporations from treating people impacted by the system as a revenue source. And our Access to Justice Project (A2J) has had unmatched success in defeating the barriers government and corporate actors erect to insulate their unlawful practices from accountability.

Both teams have a strong record of bringing and winning high-impact litigation to vindicate the rights of those harmed by the carceral state, and we can multiply our impact by marshalling Public Justice's hundreds of lawyer members. Together, we have the experience and expertise to not only litigate cutting-edge cases—from inception to development through appellate stages—but to also engage in the out-of-court advocacy, public education, and narrative shifting needed for this work to have a lasting impact. And as a national organization, Public Justice can focus on pursuing the strongest cases in the most promising jurisdictions to establish precedents that will benefit the largest number of people.

Here are specific examples of some of our recent accomplishments in this area:



ACLU of Iowa/Alesha Fox

- Earlier this month, we filed *Roberts v. Thompson*, a **first-of-its-kind class action challenging jail fees** in Iowa. We built this case from the ground up over the past year. As this [press release](#) explains, we're suing to stop the practice in Black Hawk County of using "confessions of judgment" to impose and collect jail "room and board" fees without any judicial review. The practice of imposing costs for every day in jail—often referred to as "pay-to-stay"—inflicts long-term harm on low-income people and communities. In Black Hawk County, the sheriff's office pockets hundreds of thousands of dollars each year and spends the cash on indulgences like a private shooting range and parties for staff and their families. Our client, Leticia Roberts, is a single mom of three who signed the sheriff's office's confession of judgment as she was released from jail because she thought she didn't have any choice. Two years later, she is still trying to pay off the \$730 bill as she struggles to make ends meet. While every county is different, pay-to-stay fees are extremely common, and we see this case as the first of many challenges to this unfair

and corrupt practice. The case has already garnered significant media attention, from [local news outlets](#) to [Jimmy Fallon](#).

- *Brown v. Stored Value Cards*, like *Reichert*, involved fee-laden release cards. We represented a putative class of individuals who had lost money to onerous release-card fees after being released from the Multnomah County, Oregon, jail; our named plaintiff had been arrested for protesting the police killing of Michael Brown. The district court had initially held that the Electronic Funds Transfer Act, which forbids prepaid cards from being activated without the user’s consent, did not apply to cards issued in the carceral context because the cards were not “marketed to the general public.” Public Justice successfully overturned that decision on appeal, and the Ninth Circuit held that **incarcerated individuals are a subset of the general public and deserve the same legal protections as other consumers**. We also helped win an appellate decision confirming that those handed release cards **did not consent to arbitrate their claims**.
- In *Kobel v. JPay*, we are challenging JPay’s practice of **charging fees of up to 45% to families sending money to loved ones in prison**. We successfully held off JPay’s efforts to send the case to individual arbitration, and we are currently litigating the case in class arbitration.
- We won a **historic preliminary injunction** in *Urquidi v. City of Los Angeles*, ensuring that **people arrested by the L.A. Police Department and L.A. Sheriff’s Department for lower-level offenses will no longer be jailed pre-arraignment because they can’t pay cash bail**. Well over a hundred people were released from jail on the first day alone. And since the injunction went into effect, many hundreds of people have been promptly released to their families rather than being jailed. The court’s opinion finding in our favor followed months of evidentiary hearings that included a wide range of data and subject-matter experts explaining in detail the overwhelming evidence that money bail makes communities less safe, harms families, and fails to benefit the public at all.
- This Spring, we filed two first-of-their kind **“Right to Hug” class actions on behalf of the children of jailed parents against the sheriffs of two Michigan counties and their for-profit carceral telecom partners**, Securus and GTL/ViaPath, for conspiring to deny children the ability to visit their jailed parents in order to make money from video calls paid for by inmates’ families. The children we represent submitted handwritten affidavits to the courts about how not being able to hug their dad—or look into his eyes—has impacted their relationship. Meanwhile, Securus and ViaPath pay the county jails hundreds of thousands of dollars each year in kickbacks. **These cases have generated national media attention including coverage in the [New York Times](#) and a feature by Pulitzer-Prize-winning writer Sarah Stillman in [The New Yorker](#). Our team is also currently working with a national television news anchor to cover this story.**

We have several litigation goals in bringing these cases: (1) Restore in-person visits at the jails in St. Clair and Genesee Counties; (2) Create momentum to restore in-person visits across Michigan; (3) Establish legal precedent that state actors cannot infringe on the right to family integrity by eliminating in-person visitation for profit; (4) Work with organizers and policy advocates to expose and draw public attention to the corruption and kickbacks in these jail video contracts, force the counties to end their contracts, and put pressure on state lawmakers to pass legislation protecting in-person visitation and making video calls free; and (5) Win compensation for impacted families. But in addition to winning in court, we envision these

lawsuits as one piece of a much larger storytelling and power building campaign: the **Right to Hug campaign**. This media and narrative work is described below.

- In *Proch v. King*, we represent a putative class against a Michigan county jail and Securus. We’re **challenging the jail’s prohibition on allowing those incarcerated at the jail to receive physical mail**. All mail is sent to Securus, which scans it and makes it available on a tablet for a fee. That means that those incarcerated in the jail are charged to view or send mail—at a rate higher than the cost of stamps—and that they cannot receive physical photos and drawings from their families or sign important documents. Further, any request for medical support or any filing of grievances must be done through the tablet. Securus sought to compel individual arbitration, but dropped its motion after Public Justice became involved.
- We won a landmark federal court ruling in *Carter v. City of Montgomery* that the City and **for-profit probation company Judicial Correction Services (JCS) can be held liable for jailing our clients**, low-income Alabamians, because they were too poor to pay traffic tickets. Montgomery contracted with JCS to collect traffic ticket debt. JCS’s system was “offender-funded,” meaning the company didn’t charge the City for its debt-collection services. Instead, the Montgomery Municipal Court placed traffic debtors on supervised “probation” with JCS. These probationers were ordered to pay \$40 every month in probation fees on top of their underlying fines. It was a lucrative business model: JCS took in over \$15 million in fees in Montgomery alone—and almost \$60 million statewide before it was forced out of Alabama. When probationers could not afford to pay, JCS petitioned the court to revoke their probation and have them arrested, and the court “commuted” (or converted) their fines to days in jail without an ability-to-pay determination. This practice violated probationers’ Due Process and Sixth Amendment rights. Our case seeks to hold the City of Montgomery, JCS, and a contract public defender responsible for these alleged violations of our clients’ constitutional and state-law rights. In July 2020, the district court denied the Defendants’ motion for summary judgment. We are currently working to certify the classes and are now on our second appeal to the Eleventh Circuit on class certification.
- As amicus, we helped win the unanimous Washington Supreme Court decision in *Seattle v. Long*, in which the court agreed with our amicus brief that **impoundment and towing fees paid to a for-profit company can constitute “fines” subject to the Excessive Fines Clause’s protections**; the Clause requires consideration of a defendant’s ability to pay; and that a \$500 fine imposed on a homeless man is unconstitutional.
- We won a critical victory in the U.S. Court of Appeals for the Fifth Circuit in *Moore v. LaSalle Management L.L.C.*, ruling that a **for-profit detention facility and its guards can be held responsible for the beating death of a pretrial detainee**—and setting important precedent that for-profit corporations are not immune from punitive damages and that their employees do not have qualified immunity from liability for constitutional violations.
- In *Nuncio v. Webb County*, we represented a mother whose son had died in jail from medical neglect in Webb County, Texas. We **successfully defeated the jailers’ claims of qualified immunity and obtained a substantial monetary settlement** for our client—an unusual success in that context.

- In *Whitson v. Hanna*, we represent the guardian of an intellectually disabled woman who was sexual assaulted by the county sheriff in Sedgwick County, Colorado, during a jail transport. Our client obtained a large jury award following trial, but would only ever recover a tiny amount of that award from the sheriff. At the Tenth Circuit, we argued that the county itself is liable for the judgment against its sheriff. The appeal is pending.
- We filed and settled *Champagne v. Linebarger*, a first-of-its kind **consumer case against the nation’s largest for-profit collector of government debt**, in which we argued that **public defender fees** are a consumer debt subject to the protections of the Fair Debt Collection Standards Act. Linebarger and other collection companies impose steep collection fees and threaten people who allegedly owe debt from criminal cases with jail, driver’s license revocation, and other consequences for failure to pay—and then claim consumer protection laws don’t apply to them because they are acting on behalf of the government and collecting court-imposed fines. But appointed counsel fees, “room and board” fees, and similar fees are imposed in exchange for “services” that could be obtained in the private marketplace. Accordingly, consumer laws apply—and these companies must be held accountable for violating them.
- For several years, we have been working with a coalition of California advocates to **end the imposition and attempted collection of \$300 “civil assessments”** on traffic court and criminal court defendants who cannot afford to pay their fines and fees. We sent demand letters and follow-up advocacy letters to superior courts in multiple counties describing how their imposition of civil assessments violated California statutes, constitutional due process and equal protection provisions, and constitutional prohibitions on self-interested actors imposing financial penalties. As these efforts were underway, members of the coalition working on the legislative side were able to secure passage of a bill capping civil assessments at \$100, ending direct financial incentives courts had to collect civil assessments, and waiving all outstanding civil assessment debt, which totaled in the hundreds of millions of dollars. Our litigation pressure against multiple superior courts was an essential part of obtaining this result. We are now sending follow-up letters to superior courts highlighting illegal practices that remain even after the legislative change, and this advocacy has swiftly resulted in multiple courts ending the imposition of these fees outright.
- We are engaged in both on-the-record and behind-the-scenes advocacy to prevent Corizon—one the country’s largest private providers of health care in jails and prisons—from fraudulently using bankruptcy to avoid tort liability for the injuries and death its notoriously subpar health care caused. We have now filed three amicus briefs, representing American Civil Liberties Union, Center for Constitutional Rights, Rights Behind Bars, the Roderick & Solange MacArthur Justice Center, and the Southern Center for Human Rights in advocating for the rights of those with tort claims against Corizon. **We’ve used our expertise in fighting court secrecy to make public Corizon’s problematic business practices in cases in Missouri and Alabama. This advocacy in and out of court has been effective: Corizon’s plan to fraudulently avoid its tort liability was rejected by the bankruptcy court.**

## Public Justice's Award-Winning Appellate Litigation

Public Justice is known as an appellate powerhouse for a reason. In the last five years, Public Justice attorneys have argued and won **three U.S. Supreme Court victories** on behalf of plaintiffs against corporations in class actions. Our team was chosen for the prestigious [National Civil Justice Institute Appellate Advocacy Award](#) for all three victories:

- In *Morgan v. Sundance, Inc.*, 596 U.S. 411 (2022), we won a unanimous decision in favor of employees in a wage theft and overtime case. The Supreme Court rejected the employer's attempt to enforce an arbitration clause and held that prejudice is not a condition for finding that a party, by litigating too long, waived its right to stay litigation or compel arbitration. The Court's decision overruled the Eighth Circuit and *eight other circuits* that had embraced arbitration-specific waiver rules requiring a showing of prejudice to the non-waiving party. This holding makes it easier for claimants to show that a defendant has waived a right to compel arbitration by participating substantially in litigation without regard to whether such participation has prejudiced the claimant.
- In *Home Depot U.S.A. v. Jackson*, 139 S. Ct. 1743 (2019), we won a critical ruling for consumers. The decision is significant in that it allows more consumers to sue in state courts, and avoid removal to federal court—a common tactic employed by defendants in such cases, often compelling consumers to satisfy numerous procedural requirements they might not face in state court.
- In *New Prime, Inc. v. Oliveira*, 586 U.S. 105 (2019), we won a unanimous victory in a wage and hour case on behalf of long-haul truckers. The Supreme Court held that a court, not an arbitrator, must decide whether the Federal Arbitration Act's exclusion for "contracts of employment" of certain transportation workers applied to the plaintiffs and held that the exclusion covers independent contractors as well as employees. The Court's unanimous decision clears the way for perhaps hundreds of thousands of transportation workers to take their cases to court if their employers break the law.

Public Justice also has a proven track record of **winning innovative appeals involving prisoners' rights and other cutting-edge constitutional issues**, including the following:

- *Brown v. Stored Value Cards*, 953 F.3d 567 (9th Cir. 2020) (reversing grant of summary judgment to bank and for-profit company that markets fee-laden prepaid debit cards to counties, to be loaded with arrested individuals' confiscated funds upon release from incarceration, allowing federal claims for violations of the Takings Clause and state claims for conversion and unjust enrichment to continue on behalf of putative nationwide class);
- *Escamilla v. Cavazos*, 643 F. App'x 406 (5th Cir. 2016) (permitting case brought by family of individual killed while in prison to proceed; case subsequently settled for the county's policy limits);
- *People for the Ethical Treatment of Animals v. Stein*, 737 Fed. App'x 122 (4th Cir. 2018) (landmark victory finding standing for plaintiffs based upon chilling effect on free speech

in First Amendment challenge to “ag-gag” law imposing criminal liability on whistleblowers who expose the true conditions at factory farms);

- *Castaneda v. United States* (C.D. Cal. No. 07-cv-07241) (wrongful death case on behalf of prisoner denied adequate medical care while in California and federal immigration custody; we reached settlements with the federal government and employees of the California Department of Corrections and Rehabilitation for a combined \$3.2 million for the Castaneda family).

## Public Justice’s Fight for Systemic Change through the Media

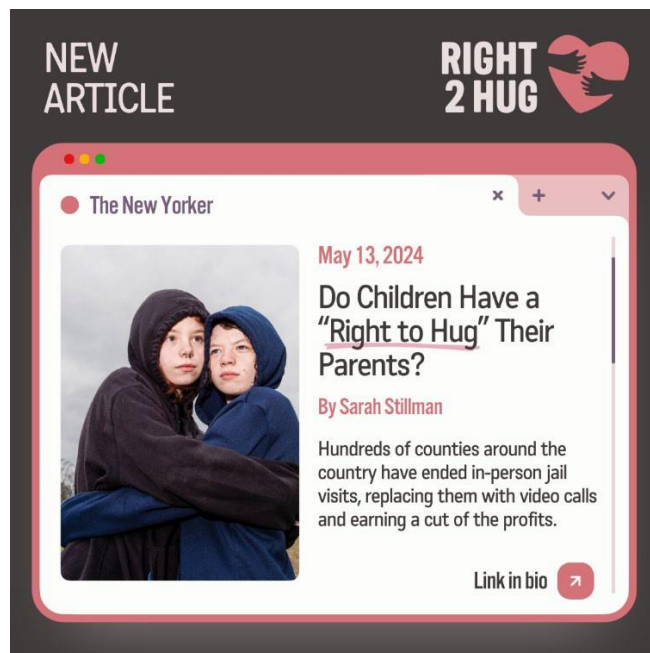
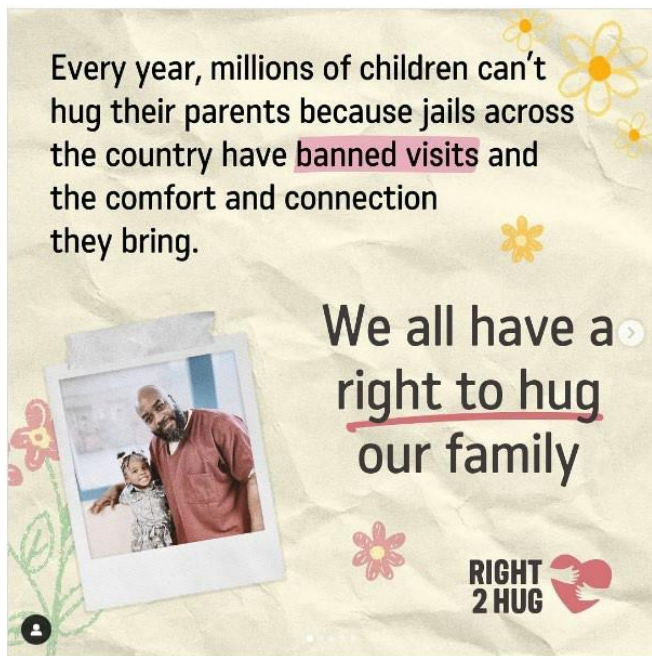
At Public Justice, we use impact litigation as a primary and powerful tool to create lasting change in our legal system. We also understand, however, that facilitating change also means winning in the court of public opinion, and mobilizing communities and stakeholders to co-create that lasting change along with us. Our programs and legal work focus on strategic ways to disrupt and change the narrative on issues at the heart of our mission, and our communications work is our megaphone to amplify and disseminate our narrative to help win lasting, positive change for the communities and clients we work with. Using impactful, strategic communications strategies, we have helped to shape the public’s understanding, and opinion, of important issues and have elevated the voices of our clients to influence policymakers, movement leaders and the public at large in ways that have resulted in change both within, and beyond, the legal system. From sparking a national conversation about workplace safety during the COVID pandemic to educating families about how to protect students and change policies in our nation’s education system, our in-house communications team has used media, grassroots outreach and organizing and strategic public education campaigns to ensure the impact and legacy of our litigation is meaningful, long-lasting and effective.

### The Right to Hug Campaign



In addition to the litigation, our work challenging the elimination of in-person visitation in jails has a significant narrative goal: to change how the public thinks of incarceration in local jails. In 2017, a wave of outrage swept the country when it became clear that President Trump was separating children from their parents at the border. The same thing is happening in over 3,000 jails across the United States every night, mostly to people who haven’t been convicted of anything and who are in jail solely because they cannot pay cash bail. There are 500,000 people in pretrial detention in the United States every night—a rate of pretrial detention unheard of in U.S. history and in the recorded history of the modern world. This is an opportunity to change how people conceive of incarceration. It will also force the public into a deeper reckoning of the actual scientific evidence about how short periods of pretrial incarceration actually increase crime. The right to hug your mom and dad, and to hug your child, is a narrative hook that can capture the imagination of well-meaning people across the country. We hope that, by uplifting the voices of impacted children, we can educate the public about how detention—particularly pre-trial detention due to the inability to pay cash bail—separates families, harms children, and keeps Black, brown, and low-income communities poor. Our hope is that this work will help empower our local allies to fight mass incarceration.

To that end, our team—with our litigation partners Civil Rights Corps—designed **Right2Hug.org**: a website introducing these ideas to everyone, and that we hope will serve as a resource for students, writers, families, investigators, and organizers. Along with our allies, we are also deploying a social media campaign uplifting our clients’ stories as featured in the New Yorker and other platforms.





Le'Essa Hill, age 18, works at a Subway sandwich shop near Flint, Michigan. Her younger sister, a 15-year-old aspiring zookeeper named Addy, helps run a "mini-farm" inside the family's green clapboard house. Le'Essa and Addy were unlikely candidates to wage an ideological battle against two big private equity firms, but they were in the midst of one because of a situation involving their father, Adam Hill. **For more than a year, while Adam was held in the county jail, awaiting trial, the girls had been prevented from seeing him in person.**



Last fall, Le'Essa learned why the children of Flint had been barred from seeing their parents at the Genesee County Jail.

**In 2012, a company called Securus Technologies struck a deal with the county, offering financial incentives to replace jail visits with video calls. Families would pay fees that could exceed a dollar a minute to see their loved ones on an often grainy video feed; the county would earn a cut of the profits.**

AUTHORED BY SARAH STILLMAN FOR THE NEW YORKER

Most Michigan jails have ended in-person visits and replaced them with expensive, glitchy phone and video calls.



Over

**427,000**

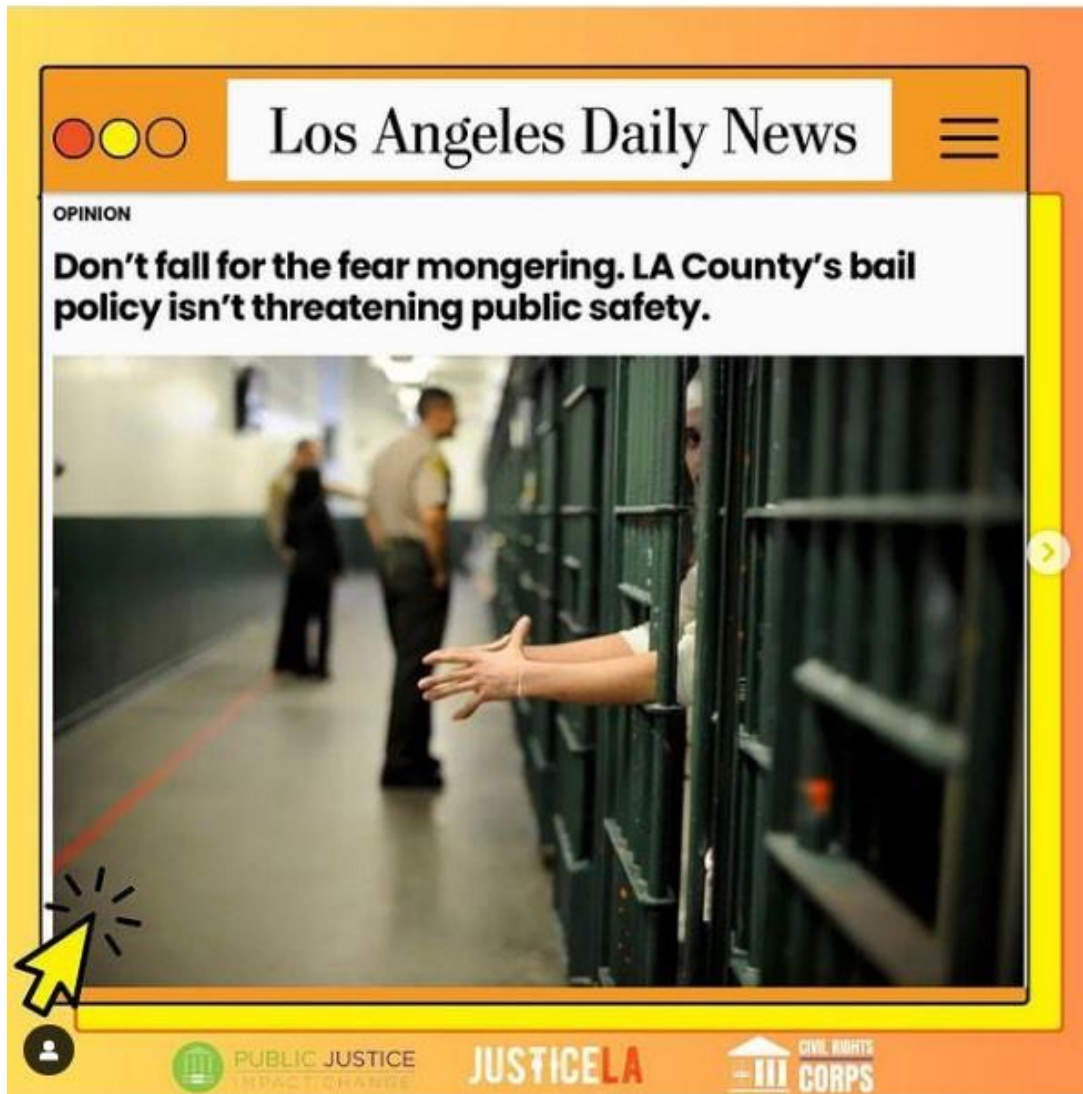
people are incarcerated pre-trial in the U.S. Many of them are there simply because they can't afford to pay a cash bond amount.

SOURCE: Prison Policy Initiative



## Shifting the narrative on money bail towards proven facts rather than media sensationalism

News reporting on bail too often ignores compelling research demonstrating that use of money bail is ineffective at achieving its two purported goals: enhancing public safety and ensuring that defendants appear in court. Many studies have concluded money bail does not enhance public safety, and that other measures such as text message court reminders are far more effective at ensuring a person appears at their court dates than is money bail. Our experts in *Urquidi* testified extensively about this [rigorous research](#). And we are working to encourage reporters and opinion columnists to highlight this research in their stories on money bail. To that end, Public Justice maintains a [Cash Bail webpage](#) that is a go-to resource for reporters and advocates, and we and our allies have been engaging in a [social media campaign](#). And our efforts to draw attention to the bail research highlighted in our litigation has resulted in it being regularly featured in pieces by the [Guardian](#), the [LA Times opinion page](#), and [numerous other news outlets](#). We are continuing to focus reporters on the relevant facts rather than on sensationalism when reporting on bail.



## Other examples of Public Justice’s narrative and media work



- Public Justice’s Students’ Civil Rights Project and our allies secured an impactful civil rights win on behalf of the family of Nigel Shelby. Nigel was a Black, openly gay high school student who tragically died by suicide after experiencing severe anti-gay harassment and race discrimination at school. Our settlement went beyond monetary damages by requiring the school district to implement policy and training changes to better protect thousands of Alabama LGBTQ+ students like Nigel from abuse. [CNN recently profiled Nigel’s mom and Public Justice client](#), Camika Shelby, about subsequent battles in the Alabama legislature.
- In an excellent example of how Public Justice’s legal and communications work combined to inspire grassroots activism and widespread attention and results, a *Slate Magazine* investigative report about a Public Justice Students’ Civil Rights Project case garnered national and local media attention and resulted in important, and impactful, action at the local level. [The original Slate article](#), about a 14-year-old Public Justice client who reported being sexually assaulted at Peachtree Ridge High School in a suburb of Atlanta, quickly made its way into local media coverage, too. The case immediately garnered additional coverage in *The Atlanta Journal-Constitution*, *The Gwinnett Daily Post* and other local outlets. As coverage of the case increased, and public outrage over the school’s ‘blame the victim’ response became clearer, recent graduates of Peachtree Ridge proactively reached out to Public Justice about organizing a response to the school’s actions. As a result, alumni and others in the community organized a rally at the local school board meeting, garnering even more press coverage, and resulting in the District Attorney re-opening his office’s investigation into our client’s case.
- At the beginning of the COVID-19 pandemic in 2020, Public Justice filed the first of its kind lawsuit seeking protections for essential, frontline workers. Our lawsuit, brought on behalf of Food and Water Watch on behalf of meatpacking workers at a Missouri plant operated by Smithfield Foods, sought to force Smithfield to provide protections for its workforce. Our related strategic communications campaign, which began with a [Washington Post op-ed](#) by a Smithfield employee (marking the very first time an industry employee spoke publicly about the lack of worker protections during COVID), ignited a broad national debate about COVID workplace protections that resulted in Members of Congress, the White House and key federal agencies unveiling various policy proposals and engaging in a national conversation about the necessity of protecting frontline workers. The case ultimately garnered national media attention from outlets including [New York Times coverage](#) of the false industry narrative around food shortages and [National Public Radio](#) reporting of employees’ working conditions – among many other stories in media outlets both large and small – and inspired similar litigation and advocacy from workers in other industries, including Amazon warehouse workers (who were

also represented by Public Justice) and fast food employees. Our public education campaign shaped these conversations and coverage and helped to win key improvements, outside of our litigation advocacy, for employees at Smithfield, Amazon and beyond.

### Cy Pres Awards to Public Justice

Public Justice is supported by the Public Justice Foundation, a 501(c)3 non-profit organization (federal identification number 59-1730478). Any *cy pres* funds awarded by the court to the Public Justice Foundation may be allocated by the Public Justice Foundation to Public Justice, as appropriate under the tax laws, for work performed by the latter organization.

Ensuring appropriate use of *cy pres* awards is important to Public Justice. As part of our work to enhance access to justice, we have proposed and received *cy pres* awards in appropriate cases. We believe that, properly used, *cy pres* awards advance class members' rights and ensure that class actions achieve their goals. In cases in which we determine a potential *cy pres* award is appropriate, in keeping with *cy pres* principles and applicable state law, the Public Justice Foundation uses *cy pres* funds to further the underlying goals of the case, directly and indirectly benefiting the class members and similarly situated persons. We would be happy to provide a list of cases in which courts have awarded *cy pres* funds to the Public Justice Foundation.

### Request for Support

We would be thrilled to dramatically expand and focus our work fighting predatory practices in the criminal legal system. With the help of significant additional resources, we are ready to launch new work in several areas where we believe we can make an unprecedented impact—both in terms of tangible benefits to system-impacted communities and in dismantling the business models of predatory defendants. This new work demands additional staff across most of our disciplines including litigation, paralegal support, communications, and in some cases community outreach. Our experience is that all these skills are needed to take on problems that are embedded in carceral systems throughout the country whether it's state, county, or local jurisdictions.

Here are the additional directions our work would take:

- **Challenging “pay to stay” fees imposed by jails and prisons.** As of 2020, almost every state in the U.S. charged individuals released from prison a nightly rate for their incarceration, and about a third of counties do the same for local jails. Individuals are released with sometimes hundreds of thousands of dollars in debt, which the state or county then attempts to collect, typically through the civil process and often by contracting with for-profit debt collectors. By shifting the cost of confinement onto those least able to pay it, these policies ensure that an already intensely disruptive and traumatic life event, incarceration, follows individuals much longer than the period of their detention. Yet despite how common these fees are, there is almost no affirmative litigation challenging them. We want to change that. We've already filed the first challenge in Iowa, but developing these cases requires significant resources, including months of pre-filing investigation. With additional staff, we could scale up these cases dramatically.

- **Challenging family separation for profit in jails: expanding the Right to Hug campaign.** Across the United States, most jails have eliminated in-person visits for friends and family. This has devastating consequences not only for incarcerated people, but also for their children and other loved ones. Meanwhile, the carceral telecom industry rakes in billions annually from video and phone calls initiated by people who simply want to remain in touch with their family while detained pretrial or serving prison sentences. This shift away from in-person visitation has been driven by the companies that have long dominated the carceral telecom market: Securus Technologies, Inc. and its chief rival ViaPath Technologies (formerly Global Tel Link or GTL). Securus and ViaPath guarantee significant financial kickbacks to counties that allow the company to set up and run high-cost video calls for people in the county jail and their loved ones; maintain the jail population at a sufficiently high level to guarantee a minimum revenue base; and eliminate in-person visitation for people in the jail so they have no choice but to use the company’s system.

We are now litigating two test cases in Michigan, but Washington state could be our next target: Kitsap County Jail, for example, has contracted with GTL/ViaPath and now allows “visitation” only by video call. And people incarcerated at facilities run by the Washington Department of Corrections must use Securus for telecom services.

- **Tackling procedural barriers to accountability for profiteers in the criminal space through high-impact appeals.** Public Justice is home to leading appellate lawyers that specialize in access to justice by dismantling the barriers defendants use to force victims out of court and to avoid accountability. But we have never had the resources to dedicate to targeting the specific barriers that deny incarcerated people access to justice. For example, many incarcerated people with robust constitutional claims are kicked out of court simply because they have not properly “exhausted” the administrative grievance system within their prison. Others are kicked out because they didn’t “plead” their claims correctly—they didn’t use the magic words a court is looking for when they filed their complaint, even if they do have strong, valid legal claims. And even if incarcerated people can get past those initial hurdles, they face countless other challenges. For example, in bringing a constitutional claim against a county jail, it’s not enough for plaintiffs to prove that jail employees violated their constitutional rights; they must prove that the county jail itself had an unconstitutional policy or practice. Courts are adopting narrower interpretations of this standard, making it more and more difficult for incarcerated people to seek justice and real accountability through the civil

court system. While there are many civil rights attorneys and organizations that develop and litigate important civil rights cases, **there is a gap when it comes to civil rights appellate attorneys focused on tackling these complex procedural barriers and legal doctrines that make it harder—across the board—for prisoners to seek justice, including, for example, immunity doctrines, exhaustion requirements, pleading requirements, “policy or practice” liability, Prison Litigation Reform Act restrictions on pro se filings, restrictions on damages, statutes of limitations, and more.** We want to use our appellate expertise to protect and expand the tools in prisoners’ litigation toolbox. To do this, we must affirmatively identify circuit splits on access to justice issues, raise novel arguments that challenge longstanding barriers, and combat efforts to further narrow and limit avenues of recourse by closely monitoring case law and helping counsel appeal bad decisions.

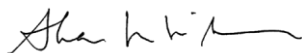
The main focus of Public Justice’s expanded work would be targeted impact litigation with the goal of ending these predatory business practices by rendering them unprofitable and risky business models. And to broaden our impact beyond the courthouse doors, we would utilize tools beyond litigation to secure lasting change, including the following:

- Elevate the voices of individuals and families impacted by the practices we challenge through targeted media plans that include press pitches and media training.
- Expose these predatory practices to the public and policymakers to make them politically unpalatable, including through anti-court secrecy litigation that we are expert in conducting.
- Empower the communities impacted by these practices to fight these predatory practices through community organizing and coalition building.
- Develop resources, including model complaints and briefings, fact sheets, and research to enable other lawyers, especially Public Justice’s network of members (1,700+), to bring additional litigation, multiplying the impact of the new initiative’s work.

## Conclusion

Again, we appreciate your support of Public Justice and the work we do and thank you for your consideration of this request. Please contact me at [smcgowan@publicjustice.net](mailto:smcgowan@publicjustice.net) if you have any questions or need additional information. We look forward to discussing this opportunity with you further.

Sincerely,



Sharon McGowan, Esq.  
Chief Executive Officer