

## PROPOSED CUTS TO NC PRISONER LEGAL SERVICES MAKE NO SENSE

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Raleigh--In *Bounds v. Smith*, the U.S. Supreme Court ruled that states are constitutionally required to provide prisoners with “meaningful access” to the courts. The occasion for that ruling? North Carolina’s ongoing failure to provide that access. And after 13 years of litigation, we finally figured out a way to do it: N.C. Prisoner Legal Services.

Now, for reasons that make no legal, economic or moral sense, the state Senate wants to eliminate PLS.

PLS is a private, nonprofit organization under annual contract to provide inmates with meaningful access to the courts. That’s not an option for North Carolina. It’s a constitutional mandate, and for 30 years, PLS has satisfied it.

We have 37,000 inmates in 66 prisons. In 2012, PLS received over 12,000 requests for assistance from them, including complaints about conditions of confinement and wrongful conviction or punishment. About 9 times out of 10, PLS counsels inmates that there is no viable legal claim. When there is, PLS often works with administrators to resolve it. When necessary, PLS litigates in court.

In 2012, for example, after settling seven cases involving the rape or sexual abuse of female prisoners, PLS settled three other abuse cases with the Division of Adult Correction in which DAC agreed to implement a number of systemic changes to protect female prisoners from retaliation for reporting abuse.

Last week, the Senate abruptly canceled the state’s \$2.89 million annual contract with PLS in favor of an unfunded mandate to provide inmates with digital legal libraries within five weeks. The proposal – a classic solution in search of a problem – will cost much more than PLS.

In 2012, PLS corrected jail credit errors that generated over \$1 million in savings to the state. In just one quarter, PLS corrected sentencing errors that generated over \$500,000 in savings. So before discharging any of North Carolina’s other duties to inmates, PLS basically pays for its own annual budget by correcting jail credit and sentencing errors.

By contrast, digital legal libraries don't pay for themselves. In addition to hardware costs, Ohio pays \$1.15 million annually for its software service, and Pennsylvania pays \$1.25 million for its libraries. North Carolina has over twice the prisons as either of those states. To provide similar libraries for inmates here would cost over \$2 million.

The Department of Public Safety would also have to spend more taxpayer dollars on staff and educational and training programs to maintain the libraries and help inmates use them.

What about inmates who can't read English, or read at all, or whose vision is impaired, or who suffer from any other disability that hinders access to the digital library? Failure to meet their needs would risk liability under *Bounds* and the Americans with Disabilities Act, as well as valuable federal funding tied to Title VI.

And what about the 7,000 inmates held in close custody, many of whom are kept in segregation? What about other security risks associated with giving inmates access to computers, rather than the human resources at PLS?

In the end, providing inmates with meaningful access to digital law libraries will cost North Carolina more than the entire contract for PLS. And that's just the beginning.

The state will also have to provide access to pre-printed forms, copiers and other materials necessary for litigating pro se. The same language barriers and physical and mental disabilities that existed at the research stage will exist at the litigation stage.

Speaking of litigation, it's difficult to overstate the additional costs and strain on judicial resources that will come from shifting post-conviction litigation from PLS to an entirely pro se model.

As the Supreme Court said about PLS programs in *Bounds*: "Independent legal advisers can mediate or resolve administratively many prisoner complaints that would otherwise burden the courts, and can convince inmates that other grievances against the prison or the legal system are ill-founded, thereby facilitating rehabilitation by assuring the inmate that he has not been treated unfairly."

Of course, sometimes inmates *are* treated unfairly, and their confinement conditions *do* violate the law. That's why states must provide them with meaningful access to the courts, and that's why PLS lawyers and staff choose to provide that service. It certainly isn't for popularity or riches.

PLS deserves praise, not extinction. While separating the wheat from the chaff of 12,000 annual inmate claims, PLS pays for itself, discharges the state's constitutional duties to its inmates and saves untold costs of frivolous litigation. Putting digital law libraries in 66 prisons won't do any of that.

The Senate proposal will end up costing more, providing less and sucking us back into years of unnecessary litigation. It could hardly be a worse idea.

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