

From the Literature . . .

by Michele Y. Deitch*

Institutional Reform Litigation

The Civil Rights Litigation Clearinghouse

http://clearinghouse.wustl.edu
Washington University in St. Louis

There is an exciting new web-based resource available for practitioners, researchers, and advocates interested in civil rights litigation. The Civil Rights Litigation Clearinghouse, as it is known, contains a collection of documents and information in more than a thousand civil rights injunction cases. While the collection includes material in categories ranging from election and voting rights to school desegregation to mental health institutions, the most relevant portion of the collection for our

available to search for free at the click of a button is nothing short of a miracle.

There are currently 426 prison cases, 258 jail cases, and 101 juvenile institution cases available to be searched in the database, and many more cases are in the process of being added. Ordinary damage cases are not included, regardless of the size of the award. Each case includes such documents as the trial court docket sheet, the complaint, any decrees issued by courts or agreed to by parties, and any opinions. Note that published opinions are accessed through a link to Lexis or Westlaw due to copyright restrictions, so this isn't a way to avoid a subscription to either service. There is a short summary of each case, a listing of the key issues, and a listing of the people involved with the liti-

other documents; policymakers can learn about reforms implemented in other jurisdictions.

I tested the website with several searches, and here's where I found some gaps between my hopes for the Clearinghouse and its reality. I began by searching the collection for documents in **Ruiz v. Estelle**, the landmark Texas prison reform case on which I spent several years working as a monitor. Presumably **Ruiz** would be well-documented, as it is one of the best-known cases in this field. I found that the summary of the case, while reasonably long, left out some critical twists and turns in the litigation. For example, there was no reference to the defendants' efforts to remove the Special Master in the mid-1980s, to the contempt order in 1987, or to the planned termination of the Office of the Special Master in 1988. Perhaps most surprisingly, the summary ended with 1999, with a reference to the fact that Judge Justice declined to terminate the case. Yet the case went up to the Fifth Circuit after this, then back down to the District Court, where Judge Justice ultimately closed the case in 2002.

Many of the key documents from **Ruiz** were included in the collection, although there was a huge gap in documents in the important period from 1987 to 1992 (when the court began the transition away from full-time monitoring), and no copies of Monitors' Reports, which could be very helpful for researchers interested in specific issues or monitoring techniques. But I found a fascinating transcript of an In-Chambers Status Conference from 2002, which provides a wonderful bit of insight to anyone curious about the waning days of this litigation. And there was also a copy of the Final Judgment that was not referenced in the case summary.

Some mistakes on the **Ruiz** database simply need to be fixed. For example, Vince Nathan, the longtime Special Master in the case, is listed as one of the plaintiffs' attorneys. And there is "None Listed" under the category of Monitors/Masters. It would also be good if there were some way of identifying the key lawyers in the list of approximately 90 lawyers who ever signed their names to a document in the case.

I next conducted a "People Search" for anyone who has ever been a Monitor or

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purposes pertains to litigation about conditions in prisons, jails, and juvenile institutions. This is also the most extensive part of the collection.

Organized in large part by Professor Margo Schlanger, whose expertise in this field is well-known, the Clearinghouse fills a very important niche in this field. As anyone who has attempted to research these complex civil rights cases knows, it is often difficult if not impossible to access unpublished opinions or even to identify critical documents. Although they are all documents of public record, lawyers or researchers trying to track down the documents would incur a lot of time and expense. Having these documents gathered in one place and

gation as lawyers, monitors, and judges.

Any case can be accessed by name. A search function also allows users to identify relevant cases by selecting such criteria as issues, cause of action, state, or name of an individual involved as a key player in the case. The website allows a user to set up a free and confidential account through which searches can be saved. Users are also invited to upload documents to be added to the collection, or to suggest other cases for inclusion.

It should be obvious that this resource could be used in countless ways limited only by the imagination of the researcher. For example, lawyers can pull up a complaint or a decree to serve as a model for their own cases or to help with the development of litigation strategy; advocates can determine if a particular institution is already under a relevant court order prior to filing a new case; lawyers can identify monitors who previously worked on cases similar to theirs in an effort to compile names for a judge's consideration; academics can conduct in-depth case studies; students can study examples of briefs, complaints, decrees, and

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Master in any prison conditions case, putting myself in the shoes of an attorney searching for a good candidate for this position in another case. The website turned up 21 names, but oddly, the list did not include some well-known masters. When I then plugged in the names of various individuals I know who have sewed in this capacity, the database responded with an extremely truncated list of the cases with which they have been involved, if any at all. I also tried identifying the civil rights injunction cases for which Judge Justice was the judge. Although there are many, only two cases (including **Ruiz**) showed up in my results. This data should be coded more accurately if this Clearinghouse is to be as effective a resource as it can surely be.

Plata v. Davis, the California prison medical care case that involves the appointment of a receiver, is featured on the website's home page, so I decided to see what documents were available for review. This collection is a treasure trove for anyone following the litigation closely. Among the included materials are: the First Amended Complaint Class Action; the Stipulation for Injunctive Relief; the Findings of Fact and Conclusions of Law regarding the Appointment of Receiver; and the Receiver's First Report. If anyone doubts the propriety of Judge Henderson's appointment of a receiver in this case, he or she should review the Judge's Findings of Fact. It contains unbelievable information, such as the finding that there was an 80% vacancy rate among higher level health care management positions. Judge Henderson describes this as "akin to having a professional baseball team with only a relief pitcher and no infielders," a wonderful quotation I would not have known but for this collection.

Lastly, I tried conducting a few searches for cases meeting certain criteria. First, I searched for sec. 1983 cases involving assault/abuse by staff and chemical restraints. The database turned up 40 cases, which is surely a helpful start to any research on this topic. I then searched for cases involving protective custody for gay, lesbian, or transgender prisoners, and 12 results were returned.

Although priority should be given to correcting mistakes in the database and summaries, the Clearinghouse coordinators might at some point consider other ways to meet the myriad needs of researchers in this field who are surely greedy for more infor-

mation. One helpful addition to the "People" part of the website would be to include a list of experts used in each case. This would streamline the process that lawyers go through in seeking experts in similar cases. Also, the "Case Studies" section of the website currently contains only student-written papers. Very useful, indeed, but there are also a great many published case studies that are well worth referencing here as well. Obviously, it could be a time-consuming process to identify these books, articles, essays, etc., but it would certainly be a worthwhile project.

The bottom line, then is this: the Civil Rights Litigation Clearinghouse is a brilliant idea designed to meet a real need in the field; it has tremendous potential as a resource, but it is still very much a work in

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