

Litigators of the Week: Illinois Jurors Hit Prison Officials With \$19M Verdict in Sexual Abuse Case

By Ross Todd

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Federal jurors in Springfield, Illinois last week sent a clear message to three former prison officials at the Logan Correctional Center. After hearing trial testimony about how a former counselor in the prison's women and family services center sexually abused prisoners and harassed an employee, jurors awarded a total of \$19.3 million in damages, including \$11.3 million in punitive damages, to one of the former prisoners. Jurors found the officials, including the counselor who didn't participate in the proceedings or show up to trial, violated the Jane Doe plaintiff's Eighth Amendment rights by submitting her to cruel and unusual punishment. The pro bono team representing Doe was led by **Britt Cramer** of **Kirkland & Ellis**, **Christina Sharkey** who recently moved from Kirkland to **Quinn Emanuel Urquhart & Sullivan**, and **Nicole Schult** of **Uptown People's Law Center**.

How did you get involved in this case?

Nicole Schult: Uptown People's Law Center (UPLC) had been investigating incidents of sexual assault at Logan for some time, but because of the fear of punishment or retaliation, many women there were reluctant to speak up about their experiences. One of UPLC's contacts at Logan contacted me about this client's situation. Since she'd already been transferred from Logan and her release date was approaching, I scheduled a legal visit with her. At the visit, we discussed what had happened to her, and I told her that UPLC would love to file a case on her behalf after she was released if she wanted to publicize what was going on at Logan. After she thought about it for a bit, she decided to go forward.



Courtesy photos

(l-r) **Britt Cramer** of **Kirkland & Ellis**, **Christina Sharkey** of **Quinn Emanuel Urquhart & Sullivan**, and **Nicole Schult** of **Uptown People's Law Center**.

Angela Wilson—the warden at Decatur at that time and an advocate for changing how women are treated in Illinois prisons—allowed me to bring my laptop to the facility (which I have never before or since been allowed to do) so that I could sit down and write the initial complaint with our client. Because of resource constraints, UPLC sought to partner with Kirkland & Ellis in representing this client.

Christina Sharkey: In response to UPLC's request for Kirkland's support, the firm's pro bono coordinator at the time, **Elise Tincher**, brought this case to former Kirkland partner **Nick Wasdin** and me. Nick and I felt passionately about the need for justice in this case, which was so wrought with callous disregard for our client's right to be free from sexual abuse. We agreed to fight this one as hard as we could, with all the might of Kirkland backing us, and that is what we did. Over the

five years that we worked up this case, much changed, including that by the time the trial date was set, I was transitioning into a role with Quinn Emanuel. Fortunately, the firms recognized my passion for justice in this case and allowed me to see it to verdict despite the move.

Britt Cramer: I was brought onto this team after discovery closed to help defeat summary judgment and co-lead the trial team. Given COVID constraints and the complex legal issues, it took nearly a year and a half for our summary judgment order to issue. At that point, staffing a tenacious and committed trial team became the priority. We strongly felt that the trial team should be primarily women, as it was fitting and necessary that women tell the story of sexual abuse, corruption, and cultural toxicity within this all-female prison. It was not difficult to assemble a group of young, incredibly talented Kirkland attorneys, ultimately composed of seven women and one man, to present this case in court.

Who was on the team and how did you divide the work—both at the investigation stage and when the case ultimately went to trial?

Schult: Traditionally when UPLC works with pro bono co-counsel, we take the lead on working with and maintaining contact with the client and providing high-level guidance on the legal issues unique to prison litigation and the inner workings of the Illinois Department of Corrections (IDOC). In this case, we relied strongly on the Kirkland team to wade through and enforce discovery, prepare and take depositions, draft the response to summary judgment, and ultimately lead the trial team.

Sharkey: At the investigation stage, current and former Kirkland attorneys Nick Wasdin, **Claire Stephens**, **Cassie Burns**, **Diego Martinez-Krippner**, and I ran as hard as we could on gathering all facts pertaining to our client's story and other similarly situated victims at Logan. That meant deposing nearly 30 witnesses, collecting thousands upon thousands of documents, and filing motions to compel information concerning the sexual abuses committed against countless Logan women. The facts we uncovered during this phase of the case were distressing, including that Warden Margaret Burke and Investigator Todd Sexton, both defendants, had known that our client was being abused while the abuse was occurring, yet did nothing to protect her from continued assault.

Cramer: For strategic reasons, we wanted to do our best to keep the trial presentation to one week. That

decision drove many of our staffing choices. To persuasively and clearly cover all of the evidence in that short period, I knew we needed to build an entire team of attorneys who were comfortable doing it all—motion practice and argument, witness prep, drafting cross and direct outlines, and standing up on their feet—because we could not afford to lose a minute of court time. So that's what we did.

We already knew the three of us would co-lead the trial and quickly decided that Christina would open, I would close, and Nicole would direct our client. Next, I identified two rising stars at Kirkland, **Jenna Stupar** and **Jessica Giulitto**, to lead our expert presentation: our first and last witnesses, respectively. Then I recruited **Evelyn Cai**, a junior associate, who had been wildly impressive on a trial of mine the year before. We rounded out the team with **Reid McEllrath** and **Jennifer Mancini**, both exceptional attorneys. Once the team was assembled, we spent time carefully matching attorneys to witnesses' demeanor and testimony to ensure the most impactful presentation. In the end, it was a trial of firsts for almost all of us in terms of the courtroom: first opening for Christina; first closing for me; first expert witness for Jenna; first witness for Evelyn; and first federal appearance and argument for Jennifer. Kirkland associate **Sarah Legault** argued motions in limine with the team—her first—and bankruptcy associate Claire Stephens obtained key admissions from multiple third-party witnesses—elicited in Claire's only depositions ever—which were played to the jury, providing critical corroborating evidence in the case.

What were the challenges of getting this case to trial?

Sharkey: The world got in the way. Both during discovery and subsequent proceedings, COVID forced significant delays and impediments to our swift resolution of these obviously compelling claims. In addition, IDOC repeatedly stonewalled us with respect to information we clearly needed to effectively try our case, which required motions and further delay to rectify. The same is true with respect to offers to settle: Despite the unambiguous merit to this case, IDOC offered Ms. Doe only \$5,000 in our court-mandated mediation.

Counselor Macleod never participated in the proceedings and was a default defendant. How did that affect the case you put on?

Schult: Counselor Richard Macleod was given every

opportunity to show up and defend himself in this case: We served him with the original complaint, our amended complaint, and a notice of default. Despite this, he refused to come forward or engage in any way, so we sought and were granted default judgment against him, which is legally equivalent to him admitting to all allegations in our complaint.

On the one hand, Macleod's default made our job easier because he had admitted liability for his repeated sexual abuse of our client. On the other hand, Macleod's absence made our jobs harder because we had to figure out how to compellingly share the details of his liability with the jury without his testimony or discovery from his personal devices. Critically, the other defendants baselessly moved to exclude all evidence of Macleod's liability before trial even began, which we vehemently opposed and defeated. Our strategy to counteract the prejudice of Macleod's nonappearance was to file a motion to have the court read each of the most compelling facts that Macleod had admitted as stipulated facts, once at the start of the evidence and once at its close, which the court granted.

What stands out from the examinations of the two defendants who were present?

Cramer: We had the investigator on the stand for eight hours, and we chose to review our most damning evidence with him. By the end, he had admitted that he had used our client as bait, that he had failed to take any action to protect our client for at least 239 days, that he chose to break every legal requirement under the Prison Rape Elimination Act when responding to the credible, detailed report of our client's ongoing abuse, and he agreed that Logan has a "toxic culture" and "is a place where sexual misconduct is rampant." He further admitted that "the staff were trying to set up meetings for quick sex in rooms set aside for nursing mothers and rooms set aside for mothers to speak to their daughters." And he admitted that he himself was a part of this culture. By the second hour of his exam, as I continued to use his cross as an opportunity to highlight the key evidence, he couldn't even look me in the eye.

Sharkey: Because the jury had heard exactly what the toxic, overtly sexualized culture of Logan looked like under Warden Burke's leadership during defendant Sexton's testimony, we were able to remind them of the most egregious facts quickly once Burke took the

stand and also introduce evidence that Warden Burke knew exactly what was happening on her watch. What was striking, and in some ways most distressing, about Warden Burke's testimony was how unrepentant, smug, and full of callous disregard she was concerning her failure to live up to her promise to protect the women entrusted to her care at Logan. Even today, we told the jury, she claims she "did her best" and holds herself out as a prison culture expert and reformer in the space of gender-based and trauma-informed incarceration procedures.

This is a case full of disturbing facts. Was there any one of them that stood out the most to you?

Schult: The fact that Macleod felt comfortable enough to masturbate in front of our client in a room of other staff people, while she was on the phone with her then-6-year-old daughter, has always been shocking to me. In the course of my work, I've discovered that many prison staff feel like gods and that there are no consequences for their actions. But this was something I hadn't seen before and haven't seen since. It truly demonstrates that the culture at Logan was, and remains, completely out of control.

Cramer: Truly, so many of the facts we presented are depraved and unthinkable. One of the (many) things that stood out starkly to me was the evidence we uncovered that proved that Logan staff members—at every level, and of every gender—were in constant communication with each other seeking to set up what defendants acknowledged were "quickie" sexual encounters, all over the facility and throughout the workday. Warden Burke and Investigator Sexton further admitted that there were known "blind spots" throughout the Logan campus that served as sexual "hot spots"—apparently for consensual and nonconsensual sex alike. In fact, the lead electrician who was charged with installing cameras to eliminate those hot spots dragged his feet for months and has since been criminally charged himself with several counts of sexual assault on female prisoners at Logan.

Sharkey: What became clear to us throughout this case was that these incarcerated women are completely powerless to their circumstances, including staff-member abuse. Prison staff have complete control over every aspect of their lives, and in a culture where those staff are conditioned to believe that sexual misconduct

will not be disciplined, as was the case at Logan, those circumstances are uniquely dangerous. Even a credible, detailed report of ongoing abuse will not be acted upon: in fact, defendant Sexton admitted that when he had a prisoner's report of rape, if the staff member alleged to have committed that rape denied it, he always took the staff member's word. What incentive do these women have to seek protection from staff members when this is the reality of the staff's response? Instead, they suffer in silence, just like our client did and so many others continue to do today.

Macleod hasn't been charged criminally. How did you address that with jurors?

Sharkey: Because punitive damages were recoverable in our case, we had a hook for getting into evidence facts concerning defendants' whereabouts today and whether they were ever disciplined for their disgusting conduct related to our client's case. The fact that Macleod was never criminally charged underscores just how easily prison staff members escape any consequences of their abuses of incarcerated individuals.

Where are all the defendants employed now? Could this verdict have professional implications for them?

Cramer: I hope the verdict has implications well beyond our trial, but that is beyond our control. Defendant Macleod was permitted to stay in his same counselor's role for 26 months after our client's abuse was first reported to Warden Burke and Investigator Sexton, and he continued to be paid by the IDOC through 2021. In 2022, defendant Macleod was hired as a child protective services agent with the Illinois Department of Family Services. We just recently learned that he was discharged from that position at some point in 2022, but we still do not know why.

Defendant Sexton still works as an investigator for the IDOC, but during the course of this case he has been promoted to a more-desirable position. He now oversees other investigators and staff including lieutenants, sergeants, and officers.

Defendant Burke retired from the Illinois Department of Corrections shortly after this case was filed. Today, she holds herself out as a prison culture expert and has been retained by other states and institutions to

oversee implementation of supposedly gender-based, trauma-informed policies and to advise other wardens.

What will you remember most about this matter?

Schult: I will always remember being an observer of our client's personal journey throughout the course of the trial. There were many instances leading up to the trial when I thought she was going to back out completely. But as the trial prep and trial progressed, I could see her becoming more confident in her choice to continue down this path. I could also see her finally dealing with some of the emotional trauma she had endured and, up until this point, had compartmentalized and put away. I think seeing firsthand that she had a strong team of legal professionals fighting for her and supporting her was eye-opening and empowering for her in a way she had not experienced prior.

Cramer: The trial experience—not only the usual crush of work, but also the mountain of disgusting evidence we were forced to wade through, tinker with, and organize so we could effectively teach the jury about the cruelty that women in the prison system are forced to suffer—it all was truly brutal. Everyone on the team felt the weight of it every day. So, when we received the verdict, when it was clear that the jurors had truly listened and acted to finally hold these defendants accountable in this historic way, the emotion was overwhelming. I cried. My client cried. Honestly, I'm pretty sure everyone in that courtroom cried—with the notable exception of Defendants and their counsel. It was more than worth it, and I know I will always keep my client's first words after the verdict stamped on my memory. She turned to me in that moment and simply said: "Now, my daughter can do whatever she wants." Chills.

Sharkey: I will never forget the incredible women that made sure these facts came to light and sought justice. Our client's bravery, as well as the bravery of many other women who either reported their abuse or the toxic system they had witnessed, gave this fierce team of lady lawyers (and their male allies) the chance to send this message wide and far: while our client and countless victims like her may have been discredited and ignored while they were incarcerated, our federal courts stand ready and willing to hear them and provide relief.