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6
7 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

8 PRISON LEGAL NEWS, a project of
9 the HUMAN RIGHTS DEFENSE
10 CENTER,

11 Plaintiff,

12 v.

13 SPOKANE COUNTY, SPOKANE
14 COUNTY SHERIFF'S OFFICE; OZZIE
KNEZOVICH, individually and in his
15 capacity as Spokane County Sheriff;
16 JOANNE LAKE, in her official and
individual capacity; LYNETTE
17 BROWN, in her official and individual
capacity,

18 Defendants.
19

No.

COMPLAINT

JURY DEMAND

20 **I. NATURE OF THE CASE**

21 1.1 Plaintiff Prison Legal News, a project of the Human Rights Defense
22 Center, brings this action primarily to enjoin Defendants' censorship of its monthly
23 publication and correspondence mailed to prisoners who are held in custody by the
24 Spokane County Jail, in violation of the First Amendment and the Fourteenth
25 Amendment's Due Process Clause. Defendants have adopted and implemented
26
27

1 written mail policies and practices that unconstitutionally restrict correspondence
2 to prisoners to postcards only, and that prohibit delivery to prisoners of book
3 catalogs and any publications that have not been preapproved by the government.
4 Further, Defendants' policies and practices do not afford the sender of the censored
5 mail due process notice and an opportunity to challenge the censorship, as required
6 by the Constitution.
7

8 **II. JURISDICTION AND VENUE**

9 2.1 This action arises under the First and Fourteenth Amendments to the
10 United States Constitution. This Court has jurisdiction over this action under 28
11 U.S.C. §§ 1331, 1343, 2201, and 2202.
12

13 2.2 Venue is proper in the Eastern District of Washington under 28 U.S.C.
14 § 1391(b)(2) because a substantial part of the events complained of occurred in this
15 District, and because the Defendants reside in this District.
16

17 **III. PARTIES**

18 3.1 Plaintiff Prison Legal News is a project of the Human Rights Defense
19 Center, a Washington Non-Profit Corporation. PLN publishes and distributes a
20 monthly journal of corrections news and analysis, and offers and sells books about
21 the criminal justice system and legal issues affecting prisoners, to prisoners,
22 lawyers, courts, libraries, and the public throughout the Country.

23 3.2 Defendant Spokane County is a municipal corporation formed under
24 the laws of the State of Washington.

25 3.3 Defendant Spokane County Sheriff's Office is a department of
26 Spokane County and operates the Spokane County Jail and the Geiger Corrections
27

1 Center, located in Spokane, Washington. These facilities house convicted
2 prisoners and pretrial detainees charged with federal or state crimes. The Spokane
3 County Jail has a capacity of 675 prisoners and the Geiger Corrections Center has
4 a capacity of 610 prisoners. The average daily population for these facilities
5 combined is 1,170 prisoners. These facilities are referred to collectively below as
6 the "Spokane County Jail."
7

8 3.4 Defendant Ozzie Knezovich is the Sheriff of Spokane County. Sheriff
9 Knezovich is employed by and is an agent of Spokane County and the Sheriff's
10 Office. He is responsible for the operations of the Spokane County Jail, and the
11 training and supervision of the Jail staff who interpret and implement the Jail's
12 mail policy for prisoners. He is the policymaker for the Jail policy governing mail
13 for prisoners.
14

15 3.5 Defendant Joanne Lake is a Lieutenant with the Spokane County
16 Sheriff's Office. She is employed by and is an agent of Spokane County and the
17 Sheriff's Office. On information and belief, Defendant Lake is responsible for and
18 personally participated in creating and implementing the Jail's mail policies at
19 issue in this case.
20

21 3.6 Defendant Lynette Brown is the Office Manager for the Spokane
22 County Jail. She is employed by and is an agent of Spokane County and the
23 Sheriff's Office. On information and belief, Defendant Brown is responsible for
24 and personally participated in creating and implementing the Jail's mail policies at
25 issue in this case.
26
27

1 4.6 **February 2010 Issue of *Prison Legal News***

2 4.6.1 In September 2010, the Spokane County Jail received the
3 February 2010 PLN publication addressed to each of the following prisoners:

4

<u>Prisoner Name</u>	<u>Inmate #</u>	<u>Date Rec'd by Jail</u>
Donta L Blackmon	308292	9/13/2010
Tony Dawson	300682	9/13/2010
Kevin Nichols	277054	9/13/2010
Ronnie Owen	362542	9/13/2010
Shaun Rockstrom	133367	9/13/2010
Robert Showers	124161	9/13/2010
Michael Skinner	230502	9/13/2010
Dave Thometz	345506	9/13/2010

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11 But Defendants rejected each publication, stamped them “Return to Sender,” stated
12 “unauthorized content” as the reason for the rejections, and returned them to Prison
13 Legal News.

14 4.6.2 In conjunction with rejecting the PLN publication
15 addressed to Prisoner Tony Dawson, Defendants gave Mr. Dawson a form stating
16 that the Jail received a package on September 13, 2010, from Prison Legal News,
17 which the Jail “returned to sender for the following reason:” “detrimental to the
18 safety, security and/or orderly operation of this facility.”

19
20 4.6.3 Prison Legal News sent all of these February 2010 PLN
21 publications to the Spokane County Jail by first-class mail.

22 4.6.4 Defendants did not provide Prison Legal News due
23 process notice or an opportunity to appeal the censorship decisions.
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1 4.7 **June 2010 Issue of *Prison Legal News***

2 4.7.1 In September 2010, the Spokane County Jail received the
3 June 2010 PLN publication addressed to each of the following prisoners:

4

<u>Prisoner Name</u>	<u>Inmate #</u>	<u>Date Rec'd by Jail</u>
5 Brandon Birkland	235818	9/17/2010
6 Jim Danforth	15530	9/17/2010
7 Daniel E Ochs	120870	9/17/2010

8 Defendants rejected each publication, stamped them "Return to Sender," noted
9 "unauthorized content" as the reason for the rejections, and returned them to Prison
10 Legal News.

11 4.7.2 In conjunction with rejecting the PLN publication
12 addressed to Prisoner James Danforth, Defendants gave Mr. Danforth a form
13 stating that the Jail received a package on September 17, 2010, from Prison Legal
14 News, which the Jail "returned to sender for the following reason:" "not postcard."

15 4.7.3 Prison Legal News sent all of these August 2010 PLN
16 publications to the Spokane County Jail by first-class mail.

17 4.7.4 Defendants did not provide Prison Legal News due
18 process notice or an opportunity to appeal the censorship decisions.

19

20 4.8 **August 2010 Issue of *Prison Legal News***

21 4.8.1 In September and October 2010, the Spokane County Jail
22 received the August 2010 PLN publication addressed to each of the following
23 prisoners:

24

<u>Prisoner Name</u>	<u>Inmate #</u>	<u>Date Rec'd by Jail</u>
25 William Bacon	359430	9/2/2010
26 Charles D Baker	68873	9/2/2010
27 Robbie W Bishop	322486	9/2/2010

<u>Prisoner Name</u>	<u>Inmate #</u>	<u>Date Rec'd by Jail</u>
Michael L Olson	256435	9/2/2010
Rex Pollock	133650	9/13/2010
Allen Warren	31824	10/2/2010

Defendants rejected each publication, stamped them "Return to Sender," noted "unauthorized content" as the reason for the rejections, and returned them to Prison Legal News.

4.8.2 In conjunction with rejecting the PLN publication addressed to Prisoner William Bacon, Defendants gave Mr. Bacon a "Postcard/Letter/Package Refusal Form" stating that the Jail received a letter on September 2, 2010, from Prison Legal News, which the Jail "returned to sender for the following reason:" "unapproved content."

4.8.3 On September 6, 2010, Prisoner William Bacon appealed Defendants' rejection of his correspondence from Prison Legal News, stating: "I'm appealing the rejection notice dated 9-2-10 for 'unapproved content' from Prison Legal News. Rejection is violating my 1st Amendment Right of Freedom of Press, and Speech [sic]. Prison Legal News is a news source for legal issues pertaining to prisoners and prisoner rights. Please overturn this rejection and send me the materials from Prison Legal News[.]"

4.8.4 On September 7, 2010, Defendants responded to Prisoner William Bacon's appeal, stating: "Answered on request form dated 9-2-10" and "Not Legal."

4.8.5 In conjunction with rejecting the PLN publication addressed to Prisoner Michael Olson, Defendants gave Mr. Olson a form stating

1 that the Jail received a letter on September 2, 2010, from Prison Legal News,
2 which was "returned to sender for the following reason:" "unapproved contents."

3 4.8.6 In September 2010, the Spokane County Jail received the
4 August 2010 PLN publication addressed to the following prisoner:

<u>Prisoner Name</u>	<u>Inmate #</u>	<u>Date Rec'd by Jail</u>
Christopher Devlin	232571	9/7/2010

7 Defendants rejected the publication, stamped it "Return to Sender", stated
8 "unauthorized content, not a post card" as the reason for the rejection, and returned
9 it to Prison Legal News.
10

11 4.8.7 Prison Legal News sent all of these August 2010 PLN
12 publications to the Spokane County Jail by first-class mail.

13 4.8.8 Defendants did not provide Prison Legal News due
14 process notice or an opportunity to appeal the censorship decisions.

15 **4.9 September 2010 Issue of *Prison Legal News*:**

16 4.9.1 In September 2010, the Spokane County Jail received the
17 September 2010 PLN publication addressed to each of the following prisoners as
18 part of their subscription to PLN:
19

<u>Prisoner Name</u>	<u>Inmate #</u>	<u>Date Rec'd by Jail</u>
William Bacon	359430	9/16/2010
Charles D Baker	68873	9/15/2010
Robbie W Bishop	322486	9/16/2010
Christopher Devlin	232571	9/15/2010
Michael L Olson	256435	9/15/2010
Allen Warren	31824	9/15/2010

1 Defendants rejected the publications, stamped them "Return to Sender," stating
2 "unauthorized content" as the reason for the rejections, and returned them to Prison
3 Legal News.

4 4.9.2 In conjunction with rejecting the PLN publication
5 addressed to Prisoner William Bacon, Defendants gave Mr. Bacon a
6 "Postcard/Letter/Package Refusal Form" stating that the Jail received a "Prison
7 Legal News magazine" on September 16, 2010, which the Jail "returned to sender
8 for the following reason:" "not approved."

9
10 4.9.3 Prison Legal News sent all of the September 2010 PLN
11 publications to the Spokane County Jail by first class mail.

12
13 4.9.4 Defendants did not provide Prison Legal News due
14 process notice or an opportunity to appeal the censorship decisions.

15 **Protecting Your Health & Safety Book**

16 4.10 Prison Legal News offers and sells books relevant to its mission, and
17 offers a catalog of these books. One of the paperback books that Prison Legal
18 News offers and sells is titled *Protecting Your Health & Safety*.

19
20 4.11 In late August and during the month of September 2010, Prison Legal
21 News sent the *Protecting Your Health & Safety* book to certain prisoners at the
22 Spokane County Jail.

23 4.12 In September 2010, the Spokane County Jail received packages
24 containing *Protecting Your Health & Safety* addressed to each of the following
25 prisoners:

26
27

<u>Prisoner Name</u>	<u>Inmate #</u>	<u>Date Rec'd by Jail</u>
William Bacon	359430	9/7/2010

<u>Prisoner Name</u>	<u>Inmate #</u>	<u>Date Rec'd by Jail</u>
Robbie W Bishop	322486	9/7/2010
Christopher Devlin	232571	9/8/2010
Michael L Olson	256435	9/8/2010

Defendants rejected each book, stamped them "Return to Sender," noted "unauthorized content" as the reason for the rejections, and returned them to Prison

Legal News:

4.13 In conjunction with rejecting the PLN book addressed to Prisoner William Bacon, Defendants gave Mr. Bacon a "Postcard/Letter/Package Refusal Form" stating that the Jail received a package on September 7, 2010, from Prison Legal News, which was "returned to sender for the following reason:" "not legal packages."

4.14 Prison Legal News sent all of the *Protecting Your Health & Safety* books to the Spokane County Jail via mail through the United States Postal Service, delivery confirmation requested.

4.15 Defendants did not provide Prison Legal News due process notice or an opportunity to appeal the censorship decisions.

Informational Brochures, Subscription Order Forms, Book Catalogs

4.16 In late August and during the month of September 2010, Prison Legal News sent informational brochures, subscription order forms, and book catalogs, to certain prisoners at the Spokane County Jail.

4.17. Prison Legal News Brochure and Subscription Order Form:
Prison Legal News sent certain prisoners at the Spokane County Jail an informational brochure about its organization and publications. The double-sided

1 single-page brochure included: a description of the topics covered in PLN's
2 monthly magazine; subscription rates, special subscription offers, and an order
3 form; a description of three books available for purchase or included with a
4 subscription to *Prison Legal News—Protecting your Health & Safety, With Liberty*
5 *for Some: 500 Years of Imprisonment in America*, and *Prison Profiteers: Who*
6 *Makes Money from Mass Incarceration*; and other information about PLN's
7 bookstore.
8

9 **4.18 Book Catalog:** Prison Legal News sent certain prisoners at the
10 Spokane County Jail its 2010 PLN Book List. The double-sided single-page book
11 list includes a description of 43 books, dictionaries, and resource materials
12 available for purchase. The books available for purchase include information
13 about a variety of topics, including but not limited to: the basic rights of prisoners
14 regarding health and safety; the American criminal justice system; self-
15 representation in court; finding the right lawyer; DNA testing; issues related to
16 imprisoned women; developing a successful re-entry plan upon release from
17 prison; searching for a job; crime and poverty; and the mental health crisis in U.S.
18 prisons and jails.
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21 **4.19 Educational Courses Brochure:** Prison Legal News sent certain
22 prisoners at the Spokane County Jail a double-sided single-page informational
23 brochure about a handbook on high school, vocational, paralegal, undergraduate,
24 and graduate courses available through correspondence study.
25
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1 **4.20 Informational Brochure Pack I:**

2 4.20.1 “Informational Brochure Pack I” as referred to below,
3 includes these items: the Prison Legal News brochure and subscription order form,
4 the 2010 PLN book catalog, and the educational courses brochure described above.

5 4.20.2 In September 2010, the Spokane County Jail received the
6 Informational Brochure Pack I addressed to each of the following prisoners:
7

<u>Prisoner Name</u>	<u>Inmate #</u>	<u>Date Rec'd by Jail</u>
William Bacon	359430	9/1/2010
Charles D Baker	68873	9/1/2010
Robbie W Bishop	322486	9/1/2010

8 Defendants rejected the brochures, stamped them “Return to Sender,” stating “not
9 a postcard” as the reason for the rejections, and returned them to Prison Legal
10 News.
11

12 4.20.3 In conjunction with rejecting the PLN brochures
13 addressed to Prisoner William Bacon, Defendants gave Mr. Bacon a
14 “Postcard/Letter/Package Refusal Form” stating that the Jail received mail from
15 Prison Legal News on September 1, 2010, which the Jail “returned to sender for
16 the following reason:” “postcard policy.”
17

18 4.20.4 On September 2, 2010, Prisoner William Bacon appealed
19 Defendants’ rejection of his correspondence from Prison Legal News received by
20 the Jail on September 1, 2010, stating “I am appealing the rejection of
21 correspondence recieved [sic] on 9-1-10 for me from Prison Legal News. The
22 postcard policy is a violation of 1st Amendment rights in freedom of press. Prison
23 Legal News is a widely recognized news source for inmates and to reject
24
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1 correspondence is unconstitutional. Please overturn this 9-1-10 rejection notice
2 and send me the news correspondence. Thank you.”

3 4.20.5 On September 7, 2010, Defendants twice rejected
4 Prisoner William Bacon’s appeal: first stating “Not Legal” and then “Legal mail
5 needs to be specific to your case. A magazine does not qualify.”
6

7 4.20.6 In September 2010, the Spokane County Jail received the
8 Informational Brochure Pack I addressed to each of the following prisoners:

<u>Prisoner Name</u>	<u>Inmate #</u>	<u>Date Rec'd by Jail</u>
Donta L Blackmon	308292	9/9/2010
Michael L Olson	256435	9/1/2010
Ronnie Owen	362542	9/9/2010
Rex Pollock	133650	9/13/2010
Shaun Rockstrom	133367	9/9/2010
Robert Showers	124161	9/9/2010
Dave Thometz	345506	9/9/2010
Allen Warren	31824	9/1/2010

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15 Defendants rejected each brochure, stamped them “Return to Sender,” stated
16 “unauthorized content: not a post card” as the reason for the rejections, and
17 returned them to Prison Legal News.
18

19 4.20.7 In conjunction with rejecting the PLN brochures
20 addressed to Prisoner Donta Blackmon, Defendants gave Ms. Blackmon a form
21 stating that the Jail received a letter on September 9, 2010, from Prison Legal
22 News, which the Jail “returned to sender for the following reason:” “not postcard.”

23 4.20.8 In conjunction with rejecting the PLN brochures
24 addressed to Prisoner Shaun Rockstrom, Defendants gave Mr. Rockstrom a form
25 stating that the Jail received a letter on September 9, 2010, from Prison Legal
26 News which the Jail “returned to sender for the following reason:” “not postcard.”
27

1 4.20.9 In conjunction with rejecting the PLN brochures
2 addressed to Prisoner Robert Showers, Defendants gave Mr. Showers a form
3 stating that the Jail received a letter on September 9, 2010, from Prison Legal
4 News, which the Jail "returned to sender for the following reason:" "not postcard."

5
6 4.20.10 In conjunction with rejecting the PLN brochures
7 addressed to Prisoner Michael Olson, Defendants gave Mr. Olson a
8 "Postcard/Letter/Package Refusal Form" stating that the Jail received a letter on
9 September 1, 2010, from Prison Legal News, which the Jail "returned to sender for
10 the following reason:" "Postcard/Policy."

11 4.20.11 In September 2010, the Spokane County Jail received the
12 Informational Brochure Pack I addressed to each of the following prisoners:

<u>Prisoner Name</u>	<u>Inmate #</u>	<u>Date Rec'd by Jail</u>
Tony Dawson	300682	9/7/2010
Michael L Olson	256435	9/9/2010
Michael Skinner	230502	9/9/2010

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17 Defendants rejected each brochure, stamped them "Return to Sender," noted
18 "exceeds 1/4" thickness/size limit" as the reason for the rejections, and returned
19 them to Prison Legal News. The envelope did not, however, contain materials that
20 exceeded 1/4" thickness.

21 4.20.12 In conjunction with rejecting the PLN brochures
22 addressed to Prisoner Tony Dawson, Defendants gave Mr. Dawson a form stating
23 that the Jail received a letter on September 9, 2010, from Prison Legal News which
24 the Jail "returned to sender for the following reason:" "not postcard."
25
26
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1 4.20.13 Prison Legal News sent the informational brochure packs
2 to the Spokane County Jail in envelopes sent via first class mail.

3 4.20.14 Defendants did not provide Prison Legal News due
4 process notice and an opportunity to appeal the censorship decisions.
5

6 **4.21 Informational Brochure Pack II:**

7 4.21.1 “Informational Brochure Pack II” as referred to below,
8 includes two items: the Prison Legal News brochure and subscription order form,
9 and the educational courses brochure described above.

10 4.21.2 In September 2010, the Spokane County Jail received the
11 Informational Brochure Pack II addressed to each of the following prisoners:
12

<u>Prisoner Name</u>	<u>Inmate #</u>	<u>Date Rec'd by Jail</u>
Cabby Baruth	251492	9/16/2010
Jason Berg	296312	9/16/2010
Samuel Bertolet	279986	9/16/2010
Brandon Birkland	235818	9/16/2010
Jim Danforth	15530	9/16/2010
Darren R Ford	219804	9/16/2010
Robert Hensley	315562	9/16/2010
Matthew Nedeau	267144	9/16/2010
Daniel E Ochs	120870	9/16/2010
Jeremy Shelton	278281	9/16/2010
Daren A Suiter	259913	9/16/2010
Stephen Victor	313789	9/16/2010
Michael Yamaguchi	307075	9/16/2010

13 Defendants rejected each brochure, stamped them “Return to Sender,” noted
14 “unauthorized content” as the reason for the rejections, and returned them to Prison
15 Legal News.
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17 4.21.3 Prison Legal News sent the informational brochure packs
18 to the Spokane County Jail in envelopes sent via first class mail.
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1 4.21.4 Defendants did not provide Prison Legal News due
2 process notice and an opportunity to appeal the censorship decision.

3 **B. JAIL POLICIES**

4 4.22 On September 1, 2010, the Spokane County Jail implemented a new
5 policy governing “incoming mail” to prisoners. A true copy of the policy is
6 attached to this Complaint as Exhibit A.

7
8 4.23 **Ban on Speech that is Not on a Postcard:** Effective September 1,
9 2010, Defendants instituted a policy that requires all incoming mail to prisoners,
10 except legal and official mail, to be in postcard form (hereinafter “Postcard Only
11 Mail Policy”).

12 4.24 The Jail’s Postcard Only Mail Policy states, in pertinent part:
13 All incoming inmate mail, except for legal and official mail, **shall be**
14 **postcards**, no larger than 5.5” X 8.5”.

15 Non-legal mail **correspondence will not be accepted in envelopes.**

16 ...

- 17
18 • All postcards must be non-glossy, and be pre-franked . . .

19 Legal mail is the exception to the **post cards only policy.**

20 ...

21 The following items are considered violations of the mail policy, and
22 will be returned to sender.

- 23 • Any non-legal correspondence not in **post card format.**
24 • Any **post cards** that exceed the accepted size limit of 5.5”X8.5”.

25 ...

- 26 • Glossy finish **post cards.**

1 (Emphasis added). See Exhibit A at 1-2, 4.

2 4.25 Defendants' policy governing incoming mail that prohibits mail other
3 than postcards and its practice of enforcing this policy unconstitutionally burdens
4 Plaintiff's First Amendment rights, and Defendants have used this Policy to censor
5 Plaintiff's subscription forms and brochures, book catalog, and other
6 correspondence.
7

8 4.26 **Ban on Speech that Is Not Pre-Approved:** The Spokane County
9 Jail's Incoming Mail Policy regarding prisoners receiving publications states:

10 Packages, other than paperback books, newspapers, or **approved**
11 magazines, shall not be accepted.

12 ...

13 Inmate's[sic], at their own expense, may receive newspapers,
14 paperback books, and **approved** magazines by mail. **All authorized**
15 **publications** must come directly from the publisher, or a bona fide
16 bookstore. **Any unauthorized publications** will be returned to
17 sender.

18 ...

19 **All authorized publications** shall be receipted [sic] by the Mail
20 Clerk, and signed for by the inmate.

21 **AUTHORIZED MAGAZINES:**

22 Religious publications mailed directly from the publisher or bona fide
23 bookstore.

24 Better Homes and Gardens
25 Business Week
26 Family Fun
27 Foreign Policy
Money
Newmax
News Week
PC World
Parents

1 People
2 Readers Digest
3 Reason
4 Smart Money
5 Time
6 Wired

7 (Emphasis added). See Exhibit A at 1, 6. The Policy does not identify *Prison*
8 *Legal News* as an authorized publication, and does not state any criteria or
9 mechanism for becoming authorized.

10 4.27 Defendants' policy governing incoming mail that prohibits
11 publications that are not pre-approved or pre-authorized by the Jail and its practice
12 in enforcing this policy unconstitutionally burdens Plaintiff's First Amendment
13 rights. Defendants have used this policy to censor Plaintiff's monthly journal,
14 *Prison Legal News*, and may have used it to censor other PLN materials.

15 4.28 **Lack of Procedural Due Process Protections:** Defendants' policy
16 governing incoming mail does not provide due process notice or an opportunity for
17 the sender to appeal the Jail's censorship decisions, and Defendants' practice
18 likewise does not provide due process notice or an opportunity for the sender to
19 appeal the Jail's censorship decisions. The Jail Policy states in pertinent part:

20 The mail clerk will complete a Mail Restriction Notice for those items
21 that are returned to sender. A copy of the notice explaining the
22 violation will be sent to the inmate.

23 See Exhibit A at 4. While the Policy provides for notice to the inmate, it does not
24 provide for notice to the sender, and nowhere does the Policy provide any appeal
25 rights of the sender.

26 4.29 Defendants' conduct prohibiting Prison Legal News from mailing its
27 publications, informational brochures, and books to prisoners confined at the

1 Spokane County Jail, violates the First Amendment by censoring these expressive
2 activities and has a chilling effect on future speech and expression directed at
3 prisoners confined there.

4 4.30 Defendants' actions have violated, continue to violate, and are
5 reasonably expected to violate in the future Plaintiff's constitutional rights, and
6 have caused Plaintiff financial harm in the form of lost subscriptions, purchases of
7 its publications, and book purchases.

8 4.31 Defendants Knezovich, Lake, and Brown, and other agents of
9 Spokane County are responsible or personally participated in creating and
10 implementing these unconstitutional policies, practices, and customs and for
11 training and supervising the mail staff whose conduct also have injured and
12 continue to injure the Plaintiff, or ratified or adopted them.

13 V. CLAIM ALLEGATIONS

14 COUNT 1

15 FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

16 5.1 Plaintiff realleges and incorporates by reference the preceding
17 paragraphs.

18 5.2 The acts described above constitute violations of Plaintiff's rights
19 under the First Amendment to the United States Constitution through 42 U.S.C.
20 § 1983, and have caused damages to Plaintiff, and will continue to cause damage.

21 5.3 Plaintiff seeks declaratory and injunctive relief and nominal and
22 compensatory damages against all Defendants. Plaintiff seeks punitive damages
23 solely against the individual Defendants in their individual capacities.
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COUNT 2

**DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT
TO THE UNITED STATES CONSTITUTION**

5.4 Plaintiff realleges and incorporates by reference the preceding paragraphs.

5.5 The acts described above constitute violations of Plaintiff's rights under the Fourteenth Amendment to the United States Constitution through 42 U.S.C. § 1983, and have caused damages to Plaintiff, and will continue to cause damages.

5.6 Plaintiff seeks declaratory and injunctive relief and nominal and compensatory damages against all Defendants. Plaintiff seeks punitive damages solely against the individual Defendants in their individual capacities.

VI. INJUNCTION ALLEGATIONS

6.1 Defendants' unconstitutional policy, practices, and customs are ongoing and continue to violate Plaintiff's rights, and as such Plaintiff has no adequate remedy at law.

6.2 Plaintiff is entitled to injunctive relief prohibiting Defendants from refusing to deliver or allow delivery of publications, books, informational brochures and catalogs, and other correspondence from Prison Legal News, and prohibiting Defendants from censoring mail without prior approval, and from censoring mail without due process of law.

1 **VII. REQUEST FOR RELIEF**

2 WHEREFORE, the Plaintiff requests relief as follows:

3 7.1 A declaration that Defendants' policies, practices, and customs violate
4 the Constitution.

5 7.2 Nominal damages for each violation by the Defendants against the
6 Plaintiff's rights.

7 7.3 A preliminary and permanent injunction preventing Defendants from
8 continuing to violate the Constitution, and providing other equitable relief.

9 7.4 A trial by jury on damages.

10 7.5 Compensatory damages in an amount to be proved at trial.

11 7.6 Punitive damages against the individual defendants in their individual
12 capacities in an amount to be proved at trial.

13 7.7 Costs, including reasonable attorney's fees, under 42 U.S.C. § 1988,
14 and under other applicable law.

15 7.8 Prejudgment and post judgment interest.

16 7.9 The right to conform the pleadings to the proof and evidence
17 presented at trial.

18 7.10 Such other relief as the Court deems just and equitable.

19 DATED this 21st day of January, 2011.

20 MacDONALD HOAGUE & BAYLESS

21 By: 

22 Jesse Wing, WSBA # 27751

23 JesseW@mhb.com

24 Katherine Chamberlain, WSBA #40014

25 KatherineC@mhb.com

26 Attorneys for Plaintiff

EXHIBIT A
TO
COMPLAINT



CHANGES INMATE MAIL

WHEN: Effective September 1st, 2010

INCOMING MAIL

All incoming inmate mail, except for legal and official mail, shall be postcards, no larger than 5.5" X 8.5".

Non-legal mail correspondence will not be accepted in envelopes.

Packages, other than paperback books, newspapers, or approved magazines, shall not be accepted.

- All incoming postcards shall have a return address, including the sender's full name.
 - If there is no return address, the mail will be marked "Dead Mail" and returned to the Post Office.
- All postcards must be non-glossy, and be pre-franked. (See guidelines).
- There shall be no restriction on the number of postcards inmates may receive.
- Postcards must have the inmate's name, middle initial, last name and CID#, or the mail will be returned to sender.
- The inmate's name must be written as it appears on the Inmate Roster.

SEE: Sheriff's Office Web Site:

<http://www.spokanecounty.org/Sheriff/inmateroster/default.aspx>.

Sample:

Inmate First, MI, Last Name / CID#
c/o Spokane County Jail
1100 W. Mallon
Spokane, WA 99260

September 1st, 2010
JML

- Inmates are responsible for notifying their correspondents of any change of address. Mail will not be forwarded for an inmate no longer in custody.

OUTGOING MAIL

Outgoing inmate mail will be restricted to post cards only, with the exception of legal mail.

Inmates may purchase pre-franked 5.5" X 8.5" postcards from commissary.

All postcards must have the complete return address, to include facility address, and the inmate's name as it appears on the roster.

SAMPLE:

Inmate First, MI, Last Name, CID#
Spokane County Jail, Cell Number/Housing Location
1100 W. Mallon
Spokane, WA 99260

Indigent inmates will have the opportunity to order three (3) post cards per week from Commissary. In addition, three (3) non-stamped legal mail envelopes with paper are also available through commissary.

Mail costs will be the responsibility of the inmate. Any charges for postage will be charged to the inmate's trust fund account.

Inmate requests for additional legal envelopes will need to be submitted with a Jail Request Form, along with a Property Release form for the additional envelopes and any corresponding postage.

Inmates may send out certified/registered legal mail, if they have the required funds. A property release form must accompany such mail.

LEGAL MAIL

Legal mail is the exception to the post cards only policy.

- Attempts to use legal mail envelopes for personal correspondence will not be tolerated.
- Once a violation has been identified, additional measures can be

placed on an inmate to include but not limited to having the inmate prove that the correspondence meets the above guidelines prior to sealing and mailing.

- Confidential incoming mail that contains contraband will be returned to sender.
- Confidential incoming mail that contains illegal contraband may be seized as evidence, and handled accordingly.

Incoming legal mail must have the return address on the front of the envelope.

The front of the envelope must be clearly marked as "Legal Mail", "Attorney", "Confidential" designating the item as legal mail. Any incoming mail that is not marked will be returned to sender.

Staff, in the presence of the inmate, will inspect all sealed incoming legal mail for contraband.

Staff, in the presence of the inmate, will receive unsealed outgoing legal mail and inspect it for contraband prior to it being sealed.

Incoming and Outgoing legal mail may be sent in envelopes and must meet the following criteria:

1. Correspondence to or from courts and court staff; attorneys; the Indeterminate Sentence Review Board; established groups involved in the representation of inmates in judicial proceedings (i.e. American Civil Liberties Union, Disability Rights of Washington, legal service groups, etc.); Elected Federal, State or Local Officials working in their official capacities; Law Enforcement Officers in an official capacity; the Washington State Office of Financial Management's Tort claims division or any other federal, state or local official or office responsible by law for receiving official notice of tort claims against a governmental entity. The Prison Rape Elimination Act Unit headquarters; Detention Services Staff working in an official capacity or any other person that the inmate can establish through the inmate grievance process is a proper recipient of legal mail.
2. Mail between inmates, verified by court order to be co-defendants to the same current legal proceedings that contain personal legal documents/papers and/or legal pleading **and** have been approved for offender to offender correspondence.
3. Indigent Legal correspondence for current cases only.

RESTRICTIONS ON INMATE CORRESPONDENCE

The rules regarding incoming and outgoing inmate mail apply to all inmates.

An inmate's correspondence will only be restricted for disciplinary purposes directly related to violations of the inmate mail policy.

Should an inmate's correspondence rights be restricted due to discipline, the reason will be stated in writing to the inmate.

The inmate is entitled to have the discipline decision reviewed by the disciplinary committee and/or the Corrections Lieutenant in charge of Custody Operations, upon written request.

Any restriction and/or discipline that is imposed regarding violations of the mail policy shall not apply to legal mail or court correspondence.

MAIL VIOLATIONS

Mail and/or items that are deemed detrimental to the safety, security, and orderly operation of the Detention Services Facilities will be considered a violation of the mail policy, and will be returned to the sender.

The mail clerk will complete a Mail Restriction Notice for those items that are returned to sender. A copy of the notice explaining the violation will be sent to the inmate.

GUIDELINES:

The following items are considered violations of the mail policy, and will be returned to sender.

- Any non-legal correspondence not in post card format.
- Any post cards that exceed the accepted size limit of 5.5"X 8.5".
- Any correspondence without the correct inmate information, i.e. full correct name, CCID#.
- Correspondence without a complete return address, including sender's full name.
- Glossy finish post cards.
- Correspondence with correction tape, fluids, crayon, colored pencil, drawings, metal clasps, staples, lipstick, glitter, stains, perfume, glue, adhesives, stickers, postage stamps, rubber inked stamps, etc.

- Sexually explicit materials.
- Explicit gang related materials.
- Any mail and/or items that are deemed detrimental to the safety, security, and orderly operation of the Detention Services Facilities.

RECEIVING MONEY THROUGH THE MAIL

Detention Services will accept US Postal Money Orders, Western Union Money Orders, Cashiers Checks, US Treasury checks, as well as checks from Tribal institutions and other correctional facilities through the mail for posting on an inmate's account.

Social Security, SSI, and unemployment checks will be placed in the inmate's property. These checks will not be posted to the inmate's account.

Any other checks will be returned to sender.

Any inmate correspondence sent with the checks is prohibited, and will be returned to sender.

Cash will only be accepted at the cashier's window at the downtown facility. Any cash mailed in shall be returned to sender.

Envelopes containing authorized checks to be placed on an inmate's account should be addressed:

Inmate First, MI, Last Name / CID#
Inmate Accounting Department
Spokane County Jail
1100 W. Mallon
Spokane, WA 99260

CERTIFIED OR REGISTERED MAIL

Certified and registered mail for inmates will be accepted by the mail room.

Registered mail with restricted delivery may be signed by a designee of Detention Services, as outlined in the USPS Domestic Mail Manual.

Any Detention Services employee may sign for certified or registered mail.

A receipt for this mail will be completed by the mail clerk, and sent to the inmate for signature.

PUBLICATIONS

Inmate's, at their own expense, may receive newspapers, paperback books, and approved magazines by mail. All authorized publications must come directly from the publisher, or a bona fide bookstore. Any unauthorized publications will be returned to sender.

Any materials which contain graphic nudity, violence, and/or anti-social materials will not be accepted, and will be returned to the sender.

Only five (5) paperback books and/or magazines may be received per day. If the number of publications received exceeds five, they will be returned to sender.

Inmates are allowed no more than five (5) books and/or magazines and one Bible in their cells, per the Module bin policy. Books and/or magazines in excess of five (5) and one Bible, will need to be disposed of by the inmate.

Any ribbon or bookmarks attached or included with any authorized publication will be cut away and discarded.

All authorized publications shall be receipted by the Mail Clerk, and signed for by the inmate.

AUTHORIZED MAGAZINES:

Religious publications mailed directly from the publisher or bona fide bookstore.

Better Homes and Gardens
Business Week
Family Fun
Foreign Policy
Money
Newsmax
News Week
PC World
Parents
People
Readers Digest
Reason
Smart Money
Time
Wired

RELIGIOUS MATERIALS

Inmates may request a Bible from the Jail Chaplain, or it may be mailed in.

Packages and/or large envelopes containing religious tracks, pamphlets, etc, are not authorized, and will be returned to sender.

Religious materials may be provided by the Jail Chaplain, upon request, as available.

IN HOUSE INMATE TO INMATE CORRESPONDENCE

Inmates may correspond with each other within Detention Services facilities using in-house mail.

A deputy will read and inspect all in-house mail.

Inspected in-house mail will have the deputy's initials, employee number, and the date notated on it.

Mail that is graphically sexual and/or contains offensive language or content will be returned to the inmate as unacceptable.

- An inmate may send one (1) in-house letter per calendar day.
- Each letter will consist of no more than 2 pages, single sided.
- Letters will be tri-folded.
- Sender's name and cell location, clearly legible, will be marked in upper left hand corner.
- Recipient's name and cell location, clearly legible, will be marked in the center.