



# POSTCARD-ONLY MAIL POLICIES IN JAIL

Leah Sakala

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## ABOUT THE AUTHOR

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## ABOUT THE PRISON POLICY INITIATIVE

The non-profit, non-partisan Prison Policy Initiative was founded in 2001 to demonstrate how the American system of incarceration negatively impacts everyone, not just the incarcerated. The Easthampton, Massachusetts based organization is most famous for its work documenting how mass incarceration skews our democracy. Other projects have included groundbreaking reports about sentencing enhancement zones and the prison telephone industry, and online resources giving activists, journalists and policymakers the tools they need to participate in setting effective criminal justice policy.

## FOR MORE INFORMATION

For more information, including copies of this report and links to additional resources, see <http://www.prisonpolicy.org/postcards/>.

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# RETURN TO SENDER: POSTCARD-ONLY MAIL POLICIES IN JAILS

by Leah Sakala

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## INTRODUCTION

Over the past five years, dozens of local jails across the country have followed a harmful new policy trend: mandating that all personal written correspondence to or from jail take place via postcard. The postcard-only trend began in 2007, when controversial Maricopa County Sheriff Joe Arpaio instituted a ban on any incoming non-legal mail except for postcards.<sup>1</sup> Since then, sheriffs from jails in at least 13 states around the country—Arizona, California, Colorado, Florida, Georgia, Kentucky, Kansas, Michigan, Missouri, Oregon, Tennessee, Utah, and Washington—have followed suit by implementing their own postcard-only restrictions on incoming and outgoing mail, radically restricting incarcerated people’s ability to communicate with the outside world. Although several jails that implemented postcard-only policies have since rescinded or relaxed their regulations in response to public pressure and litigation, dozens of postcard-only policies still stand, and more are introduced each year.

Postcard-only mail policies are ostensibly crafted to save funds by streamlining the mail screening process and limiting opportunities to introduce contraband into correctional facilities. In practice, they have the perverse effect of deterring written communication between incarcerated people and their communities,<sup>2</sup> straining connections that are essential for both successful reintegration and for preventing reoffending. Social science research has repeatedly documented the significant social and economic value of preserving the community and family support systems that keep formerly incarcerated people from returning to jail. Postcard-only policies run contrary to prevailing correctional standards and best practices, and the vast majority of jail facilities around the country, as well as all other kinds of detention facilities, successfully implement mail security measures without imposing dramatic postcard-only restrictions.

Additionally, postcard-only jail mail policies place a significant burden on the disproportionately black and low-income family members and communities of people incarcerated in jails. Limited visiting hours, exorbitant jail phone rates, and long distances make written communication the only viable way for many families and

community members to stay in touch with people in jail. Postcards are not a sufficient substitute for letters because they significantly restrict expression and communication, and they force people to choose between inappropriately exposing personal information and not communicating at all. Postcards are also far less economically efficient than letters, and each word written on a postcard is about 34 times as expensive as a word written on paper and mailed in an envelope.<sup>3</sup> Mandating that all written communication take place within the limited confines of individual postcards dramatically reduces friends’ and family members’ ability to communicate with a loved one behind bars.

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**Jails have very little to gain from postcard-only mail rules, and society has a lot to lose from stifling written communication between incarcerated people and their communities.**

In short, jails have very little to gain from postcard-only mail rules, and society has a lot to lose from policies that stifle written communication between incarcerated people and their communities.

This report recommends that:

- 1) All jails should allow communication via letter and envelope.
- 2) State regulatory agencies that are responsible for jail oversight should prohibit postcard-only mail policies.
- 3) Professional correctional associations should refuse to accredit correctional facilities with postcard-only mail policies.
- 4) Immigrations and Customs Enforcement and state departments of corrections that contract with local jails for additional cell space should refuse to contract with facilities that enforce postcard-only mail restrictions.

## LETTER CORRESPONDENCE IS ESSENTIAL FOR INCARCERATED PEOPLE

Impeding written correspondence stifles one of the three most critical modes of communication between incarcerated people and their families and communities. When someone is put behind bars, postal mail, phone

calls, and in-person visits are the three main ways to stay in touch. Mail correspondence is generally the most practical and economical method of communication to and from a correctional facility, and jails have successfully accommodated letter correspondence for centuries. Jail policies that limit incoming or outgoing mail—or both—to postcard format, making exceptions only for “legal” or sometimes “official” mail, constitute a dramatic departure from a long history of jail mail practices.

Contrary to what some jail officials insist, postcard-only policies stifle communication between incarcerated individuals and their communities because alternative forms of contact cannot replace the essential communication that is possible via letter. In-person visits are impossible for many family and community members, particularly when incarcerated people are sent to remote jails outside their communities. Jail visitation hours at many facilities are limited to just a few hours per week in a single time slot specified by jail officials, which can conflict with the employment schedule or childcare responsibilities of potential visitors. Jail phone calling rates are notorious for being prohibitively expensive. With some calls approaching \$1.00 per minute, plus an upfront connection fee, many families, friends, and colleagues who need to stay in touch are unable to afford regular phone contact.<sup>4</sup> With a letter, however, a single 45-cent stamp can efficiently send eight double-sided pages of writing paper in one envelope, placed in a local mailbox whenever the sender’s schedule allows.

Jail officials should be especially concerned about disrupting community ties because the people in jail custody are either serving relatively short sentences, or are still presumed innocent because they have not been tried or convicted.<sup>5</sup> In either case, individuals in jail will shortly return to the community and must resume daily life after experiencing a disruption in family, educational, professional, and other community affairs.<sup>6</sup> In contrast with state or federal prisons, the time an individual spends in jail can range from a few hours to, in most states, no more than a year. Often, sheriffs point to the fact that the average time spent in jail is only 10 or 20 days to justify prohibiting letters, but that “average” ignores the fact that the many people currently in jail are there long enough for letters to be critically important. For example, in the Los Angeles County jail system, the largest in the county, the majority of people (60%) spend more than a week in jail. The average time served for those who are not released in the first week is nearly three months (87 days).<sup>7</sup> Keeping in touch with family and other members of the community is essential to successfully achieving stability and resuming daily responsibilities after being released from jail.<sup>8</sup>

## POSTCARD POLICIES BURDEN THE FAMILIES AND COMMUNITIES OF INCARCERATED PEOPLE

Postcard-only mail policies constitute a significant burden on the disproportionately black<sup>9</sup> and low-income<sup>10</sup> families and communities of the people incarcerated in jails. Families of incarcerated people face not only the economic and logistical struggle of coping with the loss of an income or main childcare provider, but also with the loss of emotional support and the social stigma of having an incarcerated family member.<sup>11</sup> Increasing the social and economic cost of staying in touch with a loved one behind bars by mandating that all written correspondence take place via postcard exacerbates these challenges.

Postcard-only policies place a particularly acute strain on parent-child relationships. Most incarcerated parents were significantly involved in their children’s lives before their period of incarceration, often as the primary caregiver. Research has documented, for example, the positive parenting exhibited by fathers before their period in jail,<sup>12</sup> and many incarcerated parents resume caregiving responsibilities upon release.<sup>13</sup> Maintaining regular contact provides clear benefits to both children and their incarcerated parents.<sup>14</sup> Because mail is the primary form of communication between incarcerated parents and their children, and the majority of incarcerated parents communicate with their sons and daughters through letters,<sup>15</sup> postcard-only policies severely limit parents’ and children’s ability to stay in touch. Drawings, for example, are a critical form of communication between many incarcerated parents and their pre-literate children, but many jail postcard-only policies prohibit any mail that includes drawings, art, photos, or even colored ink.<sup>16</sup> In these jurisdictions, the only permissible means of communication on paper is handwriting in black or blue ink on one side of a postcard. These examples from successful lawsuits against postcard-only policies in Colorado and Florida jails illustrate the strain jail postcard-only policies put on parents’ relationships with their children:

- Jason Kennedy corresponded regularly with his wife and children via letter, sending drawings to his mentally disabled eight-year-old daughter. After the jail began to enforce a postcard-only mail policy, he could no longer send his drawings to his daughter. Because his family was neither able to visit regularly nor could afford the expense of extended phone calls, Mr. Kennedy’s communication with his family was stifled.<sup>17</sup>
- Amber Huguenot had relied on drawings to communicate with her pre-literate children and

express her feelings for them while she was in jail. When the jail instituted a postcard-only policy that included a ban on drawings, her children could not longer receive emotionally important communication from their mother. Too young to understand the postcard-only policy, the children were distressed when they suddenly stopped receiving drawings from their mother.<sup>18</sup>

- Robert Rumpf regularly sent cartoons to his two-year-old niece in order to maintain their relationship while he was incarcerated. When the jail instituted a postcard-only policy, he was prevented from engaging in meaningful communication with her.<sup>19</sup>

Postcard policies also sever communication between incarcerated people and loved ones on the outside who have medical conditions that limit their physical ability to read or write. When a postcard-only policy goes into effect, individuals who are physically unable to communicate in postcard format are effectively barred from written correspondence with an individual in jail, as in the following examples shared during my interviews with civil rights lawyers:

- A man in a Kansas jail with a postcard-only policy was unable to receive any written correspondence from his partner because she suffers from severe carpal tunnel syndrome and is unable to write by hand. She corresponds via letter regularly with other family members by using voice transcription technology. Since the assistive technology is not compatible with a postcard format, the couple was unable to correspond.<sup>20</sup>
- An individual in jail was unable to receive mail from an elderly relative who had arthritis because the relative was unable to write small enough to fit a message into the limited confines of a postcard.<sup>21</sup>

Postcard-only policies prevent families and friends from sharing personal or confidential information with each other. Anyone who wishes to send mail to or from a jail that enforces a postcard-only policy must subject the entire contents of his or her communication to review not only by mail screeners in the jail, but also to anyone else who happens to view the postcard between the time it is written and the time it arrives in the hands of its intended recipient. Mailroom officials, postal carriers, and anyone at the postcard's origin or destination—including cellmates, other people at the jail, or any family members or coworkers who happen to retrieve the mail—all have access to every word written to or from jail on a postcard.

- In order to fill an eyeglasses prescription, David Clay needed to provide personal information, such as his social security number and date of birth. Because the jail in which he was confined had a postcard-only policy, he was forced to expose private data to anyone who handled or saw the postcard.<sup>22</sup>

Postcard-only policies substantially increase opportunities for inappropriate disclosure of personal information, creating a substantial barrier for individuals, both inside and outside of jail, who must arrange confidential personal affairs.

These privacy concerns prevent family members from communicating sensitive or personal information with each other in a confidential or timely manner. Numerous instances of this harmful chilling effect have been documented, such as the following cases from the successful Colorado and Florida lawsuits:

- While in jail, Lamont Morgan needed to communicate with his wife about parenting concerns, such as their oldest daughter's romantic relationship. The jail's postcard-only mail policy prevented him from writing to his partner because he was concerned that his younger children would inappropriately see the exposed confidential information about their sister.<sup>23</sup>
- Amber Hugenot, who was pregnant while in jail, was concerned about who would care for her child when he or she was born. She needed to communicate with the child's father in order to make appropriate childcare arrangements, but the lack of privacy deterred her from expressing her sensitive questions and concerns with the child's other parent.<sup>24</sup>
- Robert Rumpf, who suffers from a terminal illness, could not privately communicate with his sister about essential and intimate health details. Since the sister lived in another state and could not visit, and Mr. Rumpf could not afford the jail's telephone calling rates, they were unable to discuss critical information about his health.<sup>25</sup>
- Marcie Hamilton wrote to her son and daughter frequently while she was in jail, sending them artwork, poetry, and song lyrics on sheets of paper. She also sent each child individual letters in separate envelopes in order to confidentially discuss sensitive issues of sexual development, sexual orientation, and family planning. When the jail implemented a postcard-only policy, her children could no longer correspond with their

mother about personal topics, and could not receive artwork and other meaningful written texts.<sup>26</sup>

As all of these examples show, the lack of confidentiality in postcard communication has serious consequences. In all of these situations, incarcerated people and their families were required to choose between inappropriately disclosing personal information and not communicating at all. Between a rock and a hard place, all chose to forgo critical communication with family members.

Because letter writing is far more economically efficient than postcards, postcard-only policies place an additional economic burden on the low-income communities with disproportionately high incarceration rates.<sup>27</sup> To quantify the additional economic burden of postcard-only policies, I directly compared the cost, in words-per-penny, of sending a message in a letter enclosed in an envelope versus on a postcard.<sup>28</sup> Using standard United States Postal Service rates, I found that every \$0.01 of postage covered 134 words written on double-sided letter-sized writing pad paper. On a postcard, the same \$0.01 pays for only four words. To write eight double-sided pages worth of text on postcards, which could be sent for \$0.45 in an envelope, one would need to send 47 postcards and it would cost more than \$15.00. In other words, relaying information on a postcard is about 34 times as expensive as in a letter. Not only is this a significant increase in upfront cost, but it becomes even more expensive with the additional time required to address and sequentially number all the postcards, and, in some cases, make an additional trip to the post office to obtain the required metered or prepaid postcards.<sup>29</sup> In sum, postcard policies foist a substantial expense on the families that can least afford it.

Mandating that all family mail correspondence take place via postcard places an enormous burden on the children, partners, parents, siblings, and other family members and friends of people who must spend a period of time in a local jail. Postcard-only mail rules ensure that the families and friends of incarcerated people, who have neither been convicted nor accused of any crime or infraction, are punished as well.

## POSTCARD-ONLY POLICIES HINDER REENTRY AND PROMOTE RECIDIVISM

Postcard-only policies impose a huge social and economic cost not only on the families of incarcerated people, but also on entire communities because they strain the social

ties that are essential for facilitating reentry and preventing recidivism. The United States jail population has more than quadrupled since 1980,<sup>30</sup> and much of that growth can be attributed to recidivism.<sup>31</sup> Social science research has found time and again that allowing incarcerated individuals to maintain meaningful connections to sources of support on the outside has a robust association with successful reentry and reduced recidivism rates. As criminal justice expert Joan Petersilia has pointed out,

*Every known study that has been able to directly examine the relationship between a prisoner's legitimate community ties and recidivism has found that feelings of being welcome at home and the strength of interpersonal ties outside prison help predict postprison adjustment.<sup>32</sup>*

One study, for example, found that formerly incarcerated individuals identified family relationships as the single most important factor in preventing them from reoffending.<sup>33</sup> Other studies have shown that formerly incarcerated individuals who assume active roles as partners and parents are less likely to return to prison.<sup>34</sup> Relationships cannot thrive, or many even survive, when a major mode of effective communication is banned.

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Incarcerated people must be allowed to regularly communicate with their families in order to be able to benefit from a safety net of familial support during the critical period directly

following release. Families are the most significant source of housing and financial support for people who are released from correctional facilities, and are also key to employment success and childcare assistance.<sup>35</sup> The nation's leading professional organization for correctional officials, the American Correctional Association, urges correctional facilities to support "successful family and community reunification," and overturn "any local, state, and federal laws and policies that place barriers on the offender's successful reentry."<sup>36</sup>

To resume daily responsibilities and achieve stability upon release, people in jail must maintain connections not only with family, but also with community religious leaders, medical caregivers, social service workers, teachers and educational professionals, work colleagues and supervisors, teammates, and friends. Each of these links are important, as the more varied the connections individuals in jail maintain during the period of incarceration, the lower the chances that they will return to jail after being released.<sup>37</sup>

Steady employment, for example, is one of the strongest predictors that an individual will avoid recidivism. When

incarcerated people are prohibited from effectively communicating with current and potential employers, they are less likely to be able to get a job and achieve economic stability after release. It is impossible, for example, to submit a job application or résumé to a prospective employer, or to sufficiently explain an unexpected prolonged absence from work, on a postcard.

- Elizabeth Fritz worked as a restaurant manager prior to her arrest for a misdemeanor. When she learned her release date from jail, she wanted to write to her boss in order to explain her absence and request to return to work when she was released. Because the jail she was confined in had a postcard-only policy, she was unable to confidentially communicate with her supervisor to arrange post-release employment.<sup>38</sup>

The problem of how to keep people from reoffending after release has been squarely established as major national priority,<sup>39</sup> and ensuring that incarcerated people can stay in touch with their communities is essential to bringing down recidivism rates. For example, both major political parties put the issue of recidivism on their agendas in their 2012 party platforms.<sup>40</sup> The Republican 2012 platform even makes the direct link between family connections and reduced reoffending, advocating for “the institution of family-friendly policies ... [to] reduce the rate of recidivism, thus reducing the enormous fiscal and social costs of incarceration.”<sup>41</sup>

Postcard-only jail mail policies are ostensibly implemented to save public resources by streamlining the jail mail screening process, but rational policy analysis requires us to compare any short-term savings with the long-term consequences of recidivism. Even where jail officials have made concrete claims that banning personal mail in envelopes saves personnel time, courts have rejected their arguments. As one judge wrote in his order for an injunction against a postcard-only policy in a Washington jail, “[a]lthough Defendants’ declarations establish that inspecting postcards is faster than opening and inspecting letters, the time-savings is too modest to demonstrate a significant rational relationship between the postcard-only policy and improving the Jail’s efficiency.”<sup>42</sup> Sheriffs’ departments that are considering implementing postcard-only mail policies have a responsibility to the public to balance vague claims about how suppressing mail may reap cost savings against the significant documented social and economic costs of rising jail populations and increased levels of reoffending.

## POSTCARD-ONLY POLICIES RUN CONTRARY TO CORRECTIONAL BEST PRACTICES

Postcard-only policies run contrary to standard correctional mail practices and established professional best practice guidelines. Limiting written personal correspondence strictly to postcards hinders efforts to facilitate reentry and reduce recidivism, which are widely recognized correctional goals. Corrections professionals on every level overwhelmingly agree that allowing incarcerated people to preserve meaningful contact with the outside community is an integral component of the correctional system’s mandate to uphold public safety.<sup>43</sup>

The several dozen jails that have implemented postcard policies are in the vast minority in the corrections field, and many jail officials continue to refuse to adopt postcard-only restrictions because of the policies’ harmful effects. For example, shortly after the San Diego jail announced its postcard-only policy, a spokesperson of the Sheriff’s Department of the Los Angeles Jails—the largest local jail system in the United States with an average

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daily population of over 18,000—told a reporter why his system would not even consider implementing a postcard-only policy: “We believe the mail coming to inmates is as important as their phone calls. If we were to limit the mail, we believe

we would see a rise in mental challenges, maybe even violence.”<sup>44</sup>

The Los Angeles Jails spokesperson’s concerns are consistent with long-established correctional professional standards that support and encourage contact between incarcerated people and their communities. The American Correctional Association’s *Manual of Correctional Standards*, first written in the 1940s, serves as a best-practices guide for correctional policy decisions and procedures. Even early versions of the *Manual* explicitly explained why written letters are an essential part of the correctional process:

To persons confined, letters from home and from friends are often as important as visits. Permission to write friends or relatives affords inmates opportunity to express affection for loved ones and in many instances to release feelings of distress and loneliness. Letters are of such tremendous importance to the inmate that institutions are glad to encourage correspondence as an integral part of the treatment program. Many institutions pay special attention also to inmates who receive no mail and require staff members in the mail office to watch systematically for such

cases. Officials then may seek out suitable friends or relatives and encourage them to write, and failing this in cases of unusual need, find interested strangers who are willing to take up correspondence with forgotten inmates.<sup>45</sup>

Postcard-only jail mail policies have the polar opposite effect, discouraging correspondence and impeding meaningful communication between incarcerated people and the outside community. The current version of the American Correctional Association’s *Standards for Adult Location Detention Facilities* reiterates the Association’s commitment to encouraging correspondence, stating that people in local correctional facilities should be permitted to send an unlimited volume of letters:

When the inmate bears the mailing cost, there is no limit on the volume of letters he/she can send or receive or on the length, language, content, or source of mail or publications, except when there is reasonable belief that limitation is necessary to protect public safety or maintain facility order and security.<sup>46</sup>

Monitoring mail is an essential part of maintaining a secure jail facility, however jails with postcard-only policies unilaterally stifle written correspondence regardless of whether or not jail officials have a reasonable belief that any given letter would present a threat to a facility or to the public. Furthermore, any mail censorship on the grounds of upholding public safety must be weighed against the strong connection that such censorship has with decreased public safety due to lower reentry success and increased recidivism.

Correctional and legal professional organizations widely agree that allowing incarcerated people to maintain connections with their families should be a particularly high priority. The American Correctional Association, for example, explicitly passed a resolution to “...[reaffirm] its promotion of family-friendly communication policies between offenders and their families through written correspondence, visitation and reasonably-priced phone calls.”<sup>47</sup> The American Jail Association, the nation’s leading association for local correctional facility professionals, “fully supports programs that encourage offenders to maintain contact with their friends and family and that access should be reasonably priced...”<sup>48</sup> The American Bar Association notes in its guidelines to bring correctional standards in line with legal precedent that, “[m]ail is a crucial method by which prisoners maintain and build familial and community ties.”<sup>49</sup> The Bar Association standards include strong language encouraging written correspondence to and from correctional facilities: “Correctional authorities should

allow prisoners to communicate as frequently as practicable in writing with their families, friends, and representatives of outside organizations, including media organizations.”<sup>50</sup> Postcard-only policies stifle such communication by presenting practical impediments to meaningful communication and imposing an extra economic burden on people who wish to stay in touch.

Because families are the main source of support for formerly incarcerated individuals directly following release, policies that jeopardize family contact also run contrary to prevailing best practices for facilitating reentry. The Re-Entry Policy Council, a joint project of the U.S. Department of Justice, the U.S. Department of Labor, and the U.S. Department of Health and Human Services, created to facilitate incarcerated individuals’ reintegration in the community, recommends that correctional institutions “help to re-establish, expand, and strengthen relationships between prisoners and their families.”<sup>51</sup>

The several dozen jails that enforce postcard-only mail restrictions dramatically deviate not only from prevailing industry standards, but also from the mail practices implemented at all other correctional facilities, including the vast majority of local jails and all state and federal prisons. Unlike jails, prison systems confine only individuals who have already been convicted and who are serving longer sentences. But even when budgets are tight, all 50 state departments of corrections, as well as the Federal Bureau of Prisons, successfully screen mail without resorting to extreme postcard-only mandates. The Federal Bureau of Prisons even explicitly states that outgoing mail from minimum or low security institutions is generally released uninspected,<sup>52</sup> and that incarcerated people are “encourage[d] to correspond.”<sup>53</sup> Blanket bans on any non-legal or official mail that is not in postcard format conflict with standard mail procedure at every level of the U.S. correctional system.<sup>54</sup>

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## **POSTCARD-ONLY POLICIES ARE OVERBROAD AND HAVE UNINTENDED CONSEQUENCES**

Sweeping postcard policies are particularly inappropriate for jails because of the diversity of functions jails serve and populations they contain. As the National Research Council of the National Academies observed, “The breadth of custodial arrangements accommodated by local jails and the dynamics of the jailed population make jails

a critical feature of the justice system—albeit one that defies neat definition and measurement.”<sup>55</sup> For example, jails contain both juveniles and adults, people who have just been arrested and those who have been convicted, people from the surrounding area and those transferred from far away, people facing misdemeanor, criminal, and civil immigration charges, and people being held under local authority and under contract with the state or federal government. Unilateral postcard-only mail policies preemptively chill all correspondence that jail officials decide is not explicitly of a legal, or in some cases “official,” nature, regardless of how legitimately critical a letter may be for either the sender or the recipient. Crafting a postcard-only restriction that anticipates and makes exceptions for all essential communication to and from the diverse jail population is impossible. Even if such a policy were feasible, the administrative challenge and expense of implementing complex mail screening rules would surely be more of a burden for jail administrators than the process of opening envelopes.

Immigration detainees facing civil charges are one example of a population that is uniquely vulnerable in the face of postcard-only jail mail policies, as more than half of detainees are held in local jail facilities.<sup>56</sup> Unlike defendants in criminal cases, people facing civil immigration charges do not enjoy a right to counsel and most people facing deportation do not have access to a lawyer.<sup>57</sup>

Individuals without a lawyer, who appear *pro se* in court, must navigate the entire process, from the period of detention to the aftermath of the outcome, as their own advocates. Postcard-only policies can dramatically hinder civil immigration detainees from advocating on their own behalf and arranging their affairs, and have the potential to exert a devastating impact on both the process and the outcome of immigration cases.

*Pro se* immigration case advocacy requires extensive communication with family members, employers, and other community members that postcard-only policies can impede or prevent.<sup>58</sup> Detained individuals must assemble a significant amount of written information from individuals on the outside, such as letters of support from a doctor or employer, testimony from family members, legal documents such as birth certificates or green cards, and educational documents such as diplomas, degrees, or GED certificates. Even in situations where family and community members are able to travel to the jail facility during visiting hours to assist with *pro se* defense, many facilities do not allow exchanges of paper or documents during in-person visits. In such situations, non-postcard

mail is the only way that detained individuals can coordinate their own defense to deportation.

Additionally, detained individuals are responsible for arranging the logistics of their cases, such as securing witnesses to appear in court, submitting motions, and filling out and submitting any necessary forms and applications, some of which may need input from family members. All of these tasks are impossible to perform from any jail that prohibits people from sending or receiving full sheets of paper in envelopes to or from family and other community members. Although jail postcard policies generally include an allowance for “legal” mail, and a handful of others also provide for other kinds of “official” mail, jail officials have complete discretion to decide what is considered to be a legal or official matter and what is not. Even when letters to and from family members, friends, or colleagues are of the utmost legal importance, they are automatically in jeopardy of being rejected from any jail with a postcard-only policy.

Unobstructed written contact during the period of detention is particularly crucial for parents, grandparents, children, siblings, extended family members or close

friends who are facing the possibility of being permanently deported from the United States.

Immigration detainees in local jails are frequently involuntarily transferred away

from their own communities to remote facilities that contract with Immigration and Customs Enforcement.<sup>59</sup> When individuals are detained far from home in a jail facility with exorbitant phone calling rates, mail is often only feasible method of communication with family and friends at home.

Impeding immigration case proceedings is just one example of the harm caused by extreme and sweeping restrictions on written correspondence between people in jail and those on the outside. But while policy experts and jail officials can perhaps anticipate many of the mail needs of immigration detainees—and should ensure that facility mail policies accommodate those needs—letters to and from jail serve myriad other unforeseen legitimate purposes, which are as varied as the populations that jails contain. Simply put, sweeping postcard-only policies cannot be crafted to accommodate all of the essential uses for non-postcard mail to or from a jail facility.

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## REJECTING POSTCARD-ONLY POLICIES

Although jail postcard-only policies are a relatively recent phenomenon and some jails continue to adopt them, litigation and public pressure have led many of the first facilities that implemented the policies to rescind their postcard-only rules. In the five years since the postcard-only policy trend began, courts, members of the public, advocates, and corrections officials have concluded that the social cost of inhibiting family and community members from communicating with people in jail is simply too high to justify dramatic mail restrictions.

The one instance where a state prison briefly announced—and then indefinitely postponed—plans to implement a postcard-only mail policy illustrates the significant social cost of restricting mail correspondence. In September of 2012, five years after Sheriff Joe Arpaio began the postcard-only policy trend, officials from the New Mexico Department of Corrections announced their intention to implement a radical change in the mail policy at the Southern New Mexico Correctional Facility, a 1,200-person medium security prison near Las Cruces: limit all incoming non-legal mail correspondence to written information on three-by-five-inch postcards.<sup>60</sup> Had it been implemented, this would have been the first postcard-only mail restriction in a state facility. Shortly after the policy was announced, however, corrections workers and family members of incarcerated people alike raised serious concerns about the potential harm of a ban on incoming letters and the policy was indefinitely postponed.

The news coverage of the New Mexico Department of Corrections' postcard-only policy proposal illustrates how responding to contraband issues with postcard-only mail policies is an approach that is both incomplete and overbroad.<sup>61</sup> When New Mexico Corrections Secretary Gregg Marcantel announced the Department's decision to not implement to policy, he explained that contraband introduced through the mail was only part of a larger problem because prison staff members constitute a significant pipeline for illicit substances entering the prison.<sup>62</sup> Marcantel also recognized that prison staff needed to decide whether or not religious mail would be handled, and that an overall ban on any non-legal mail would likely need to be modified to exempt "certain types of correspondence like information from social agencies that are needed for inmate parole plans..."<sup>63</sup> As the New Mexico example illustrates, postcard-only rules constitute a clumsy policy response to contraband problems, failing

to prevent illegal materials from being introduced to the correctional facilities while creating new obstacles for the rehabilitation and reentry programs that deter crime.

While the New Mexico Department of Corrections' postcard-only policy proposal was halted before it could be implemented, dozens of jails across the country that did initially craft and enforce postcard-only policies later abolished, postponed, or relaxed their postcard rules due to both constitutional and practical concerns. Local jail facilities that have overturned, postponed, or had a court-ordered injunction against their postcard-only policies include the Pinal County Jail in Arizona;<sup>64</sup> the jails the Colorado counties of Boulder,<sup>65</sup> El Paso,<sup>66</sup> and Lenawee;<sup>67</sup> the Santa Rosa County Jail in Florida;<sup>68</sup> the Butler<sup>69</sup> county jail in Kansas; the Bates<sup>70</sup> county jail in Missouri; the Oregon county jails of Columbia,<sup>71</sup> Marion,<sup>72</sup> and Benton;<sup>73</sup> and the Washington county jails in Spokane<sup>74</sup> and Yakima.<sup>75</sup> Officials in numerous other county jails have considered implementing postcard mail restrictions, but ultimately decided against banning non-postcard mail.<sup>76</sup> The five years since the jail postcard-only

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**To enhance public safety, ensure that tax dollars are used efficiently, promote family stability, and prevent people from returning to jail, the postcard-only mail policy trend must end.**

policy trend began have shown that dramatically restricting crucial written communication between incarcerated people and their communities is a destructive and expensive choice.

## CONCLUSION AND RECOMMENDATIONS

Jail postcard-only mail policies constitute a dramatic and unnecessary policy departure from centuries of successful jail mail systems, and are out of step with widely accepted correctional standards and best practices. The local jails that introduce postcard-only policies are adopting an approach more severe than that imposed even in maximum-security prisons. Postcards are not sufficient substitute for correspondence in envelopes, and jails with postcard-only policies ensure that family members of incarcerated people who wish to communicate with their loved ones are punished as well.

Local jails have a legitimate responsibility to preserve security and control spending, but they cannot ignore the significant social damage done by suppressing written correspondence. Mandating that all personal correspondence take place via postcard has a chilling effect on communication necessary to maintain social ties that are key for facilitating reentry and preventing recidivism. To enhance public safety, ensure that tax dollars are used efficiently, promote family stability, and

prevent people from returning to jail, the postcard-only mail policy trend must end.

We recommend:

- 1) All jails should allow personal communication via letter and envelope. Jails that currently enforce postcard-only restrictions should revoke their postcard requirements and instead use the predominant mail screening methods implemented by prisons and the vast majority of jails.
- 2) State regulatory agencies that are responsible for jail oversight should prohibit postcard-only mail policies.
- 3) Because leading professional correctional associations unanimously agree on the importance of preserving community connections during the period of incarceration, they should refuse to accredit correctional facilities with postcard-only mail policies.
- 4) Federal and state agencies that contract with local jails, especially Immigrations and Customs Enforcement, should refuse to enter into contracts with jails that place dramatic restrictions on outgoing or incoming mail. Such restrictions contradict standard practices in state and federal facilities, and can impair detained individuals' ability to handle their cases.

## ENDNOTES

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<sup>2</sup> Amicus brief of the Michigan American Civil Liberties Union in *Prison Legal News v. Bezotte*, No. 2:11-cv-13460 (MI 2012), 6.

<sup>3</sup> See page 4 for details on this calculation.

<sup>4</sup> See, for example, Greg Garland, "PSC probing rates for inmate phone calls," *The Advocate*, Sep 27, 2011. Accessed December 20, 2012 from: <http://theadvocate.com/home/928995-79/story.html>; Rob Wildeboer, "Cook County phone contract costs inmates and families," *WEBEZ 91.5*, March 14, 2012. Accessed December 20, 2012 from: <http://www.wbez.org/story/cook-county-phone-contract-costs-inmates-and-families-97263>; Milton J. Valencia, "Advocates, families fight jail phone fees," *Boston Globe*, July 13, 2012. Accessed December 20, 2012 from: <http://www.bostonglobe.com/metro/2012/07/12/inmates-families-challenging-costly-phone-bills/SWxp4emcQXp05c0pL2Z2AO/story.html>.

<sup>5</sup> Two jail experts, Martha Lyman and Stefan LoBuglio, vividly analogized that the nation's jail population "flows like a torrential river" with a constantly churning population entering and exiting jail doors in their paper "'Whys and Hows' of Measuring Jail Recidivism" submitted for an Urban Institute Jail Reentry Roundtable, June 27-28, 2006. Accessed December 20, 2012 from: [http://www.urban.org/reentryroundtable/lyman\\_lobuglio.pdf](http://www.urban.org/reentryroundtable/lyman_lobuglio.pdf).

<sup>6</sup> Todd R. Clear, Elin Waring and Kristen Scully, "Communities and Reentry" in *Prisoner Reentry and Crime in America*, Jeremy Travis and Christy Visser, eds. (New York: Cambridge University Press, 2006), 179-208.

<sup>7</sup> In the Los Angeles Jail system, roughly a third of all individuals who are booked are released within three days, and nearly 40% are released within a week. James Austin, et. al., *Evaluation of the Current and Future Los Angeles County Jail Population* (Denver, CO: JFA Associates, 2012). Accessed December 12, 2012 from: [http://www.aclu.org/files/assets/austin\\_report\\_20120410.pdf](http://www.aclu.org/files/assets/austin_report_20120410.pdf).

<sup>8</sup> Joan Petersilia, *When Prisoners Come Home* (New York, NY: Oxford University Press, 2006), 246.

<sup>9</sup> Bureau of Justice Statistics, *Jail Inmates at Midyear 2011* (Washington D.C.: U.S. Department of Justice, April, 2012), Table 6.

<sup>10</sup> See generally Bruce Western, "Chapter 4: Invisible Inequality," in *Punishment and Inequality in America* (New York: Russell Sage Foundation, 2006) 85-107.

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- <sup>12</sup> Petersilia 2006, 228.
- <sup>13</sup> Steve Christian, *Children of Incarcerated Parents* (Washington D.C.: National Conference of State Legislatures, March 2009), 2-4; Charlene Wear Simmons, *Children of Incarcerated Parents* (Sacramento: California Research Bureau, 2001), 4. Accessed November 20, 2012 from: <http://www.ncsl.org/documents/cyf/childrenofincarceratedparents.pdf>.
- <sup>14</sup> Reentry Policy Council, Policy Statement 13 in *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community* (New York: Council of State Governments Justice Center, 2006), 192.
- <sup>15</sup> Margaret diZerega and Sandra Villalobos Agudelo, *Piloting a Tool for Reentry* (New York: Vera Institute of Justice, 2011). Accessed November 12, 2012 from: <http://www.vera.org/download?file=3339/Piloting-a-Tool-for-Reentry-Updated.pdf>; Bureau of Justice Statistics, *Parents in Prison and Their Minor Children* (Washington D.C.: U.S. Department of Justice, August 2008), 6.
- <sup>16</sup> See, for example, the policies at the Manatee County, Florida jail (accessed November 13, 2012 from: <http://www.manateesherriff.com/Bureaus/MailGuidlines.aspx>), the Glynn County, Georgia jail (accessed November 13, 2012 from: <http://www.glynncountysheriff.org/data/mail.pdf>), or the Lafayette County Missouri jail (accessed November 13, 2012 from: <http://www.lcsheriff.com/MailProc.htm>).
- <sup>17</sup> Second Amended Complaint, *Reynolds v. Hall*, No. 3:10-cv-355 (N.D. Fla.), filed December 4, 2010, 5-6. (Document on file with author.) (Regarding the jail in Santa Rosa Florida.)
- <sup>18</sup> Class Action Complaint for Injunctive and Declaratory Relief, *Martinez v. Marketa*, No. 10-cv-02242, filed on September 14, 2010 (opinion issued 2011 U.S. Dist. LEXIS 60711 (D. Colo. June 7, 2011)), 9-10. (Regarding the jail in El Paso County, Colorado.)
- <sup>19</sup> Class Action Complaint for Injunctive and Declaratory Relief, *Martinez v. Marketa*, 13-15.
- <sup>20</sup> John Hines, personal correspondence to Prison Legal News on February 20, 2012. (On file with author.)
- <sup>21</sup> Telephone interview by the author with Lance Weber, Litigation Director of the Human Rights Defense Center, November 6, 2012.
- <sup>22</sup> Class Action Complaint for Injunctive and Declaratory Relief, *Clay v. Pelle*, No. 10-cv-01840, filed August 3, 2010 (opinion issued 2011 U.S. Dist. LEXIS 27630 (D. Colo. Mar. 8, 2011)), 5-6. (Regarding the jail in Boulder County Colorado.)
- <sup>23</sup> Class Action Complaint for Injunctive and Declaratory Relief, *Clay v. Pelle*, 7-8.
- <sup>24</sup> Class Action Complaint for Injunctive and Declaratory Relief, *Martinez v. Marketa*, 9-10.
- <sup>25</sup> Class Action Complaint for Injunctive and Declaratory Relief, *Martinez v. Marketa*, 13-15.
- <sup>26</sup> Second Amended Complaint, *Reynolds v. Hall*, 6-9.
- <sup>27</sup> Prior to their arrest, people in jail are far less likely to be employed than people who are not in jail (29% versus 6% in 2002). Of the incarcerated people who were employed in the month prior to their arrest, most earned less than \$1,000. Doris J. James, *Profile of Jail Inmates, 2002* (Washington D.C.: U.S. Department of Justice, July 2004). Bureau of Labor Statistics, “Employment status of the civilian population by sex and age,” Economic News Release, Table A-1 from January 2002. Accessed January 29, 2013 from: <http://www.bls.gov/webapps/legacy/cpsatab1.htm>. See also Todd R. Clear, “The Effects of High Imprisonment Rates on Communities,” *Crime and Justice*, Vol. 37 No. 1 (2008), 97-132.
- <sup>28</sup> I compared test handwriting samples on writing pad paper versus handwriting samples on the largest allowable U.S. Postal Service regular postcard size. To most closely simulate realistic postcard writing and err on the side of a conservative estimate, the handwriting on the postcard was even smaller than the handwriting on the letter. This calculation does not include the expense of purchasing postcards, paper, or envelopes because of the wide variation between the cost of writing supplies at different facilities.
- <sup>29</sup> For examples of postcard-only policies that prohibit stamped postcards, see the Maricopa County Sheriff’s Office’s policy in Arizona, accessed November 5, 2012 from: [http://www.mcso.org/About/FAQ/pdf/jail\\_mail\\_rules.pdf](http://www.mcso.org/About/FAQ/pdf/jail_mail_rules.pdf), or the policy enforced by the Sheriff’s Office in the Douglas County, Georgia jail, accessed December 20, 2012 from: [http://www.sheriff.douglas.ga.us/pdfs/inmate\\_mail.pdf](http://www.sheriff.douglas.ga.us/pdfs/inmate_mail.pdf).
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- <sup>32</sup> Petersilia 2006, 245-246. Emphasis in original.
- <sup>33</sup> Nancy La Vigne, *Chicago Prisoners’ Experiences Returning Home* (Washington D.C.: Urban Institute, 2004). Accessed September 24, 2012 from: [http://www.urban.org/uploadedpdf/311115\\_chicagoprisoners.pdf](http://www.urban.org/uploadedpdf/311115_chicagoprisoners.pdf).
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- <sup>37</sup> Minnesota Department of Corrections, *Effects of Prison Visitation on Offender Recidivism*, November 2011. Accessed December 3, 2012 from: [http://www.doc.state.mn.us/publications/documents/11-11PrisonVisitationResearchinBrief\\_Final.pdf](http://www.doc.state.mn.us/publications/documents/11-11PrisonVisitationResearchinBrief_Final.pdf).
- <sup>38</sup> Class Action Complaint for Injunctive and Declaratory Relief, *Martinez v. Marketa*, 8-9.
- <sup>39</sup> Erin A. Orrick et. al., “Testing Social Support Theory: A Multilevel Analysis of Recidivism,” *Journal of Criminal Justice*, Vol. 39 No. 6 (November/December 2011), 501.
- <sup>40</sup> *Democratic National Platform*, 2012. Accessed October 20, 2012 from: <http://assets.dstatic.org/dnc-platform/2012-National-Platform.pdf>; *Republican Party Platform*, 2012, 38. Accessed October 20, 2012 from: <http://www.gop.com/wp-content/uploads/2012/08/2012GOPPlatform.pdf>.
- <sup>41</sup> *Republican Party Platform*, 2012, 38.
- <sup>42</sup> Opinion and order, *Prison Legal News v. Columbia County*, No. 3:12-cv-00071-SI (Opinion issued 2012 U.S. Dist. LEXIS 74030 (D. Or. May 29, 2012)), 19.
- <sup>43</sup> See footnotes 45-53.
- <sup>44</sup> Steve Whitmore, quoted in Associated Press, “Ventura County jail limits inmates to postcards,” *Ventura County Star*, September 24, 2010. Accessed October 20, 2012 from: <http://www.vcstar.com/news/2010/sep/24/ventura-county-jail-limits-inmates-to-postcards/>.
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- <sup>46</sup> American Correctional Association in Cooperation with Commission on Accreditation for Corrections, *Standards for Adult Location Detention Facilities, Fourth Edition*, 4-ALDF-5B-05, (June 2004). See also American Correctional Association in Cooperation with Commission on Accreditation for Corrections, *2012 Standards Supplement* (June 2012). (Document on file with author.) The standard for prison facilities is very similar, see American Correctional Association in Cooperation with Commission on Accreditation for Corrections, *Standards for Adult Correctional Institutions, Fourth Edition*, 4-4488 (January 2012); American Correctional Association in Cooperation with Commission on Accreditation for Corrections, *2012 Standards Supplement* (June 2012). (Document on file with author.)
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- <sup>48</sup> American Jail Association, “Adult/Juvenile Offender Access to Telephones” resolution, adopted May 3, 2008. Accessed November 4, 2012 from: <http://www.aca.org/government/policyresolution/view.asp?ID=2&printview=1>.
- <sup>49</sup> American Bar Association, Standard 23-8.6 “Written communications,” *ABA Standards for Criminal Justice: Treatment of Prisoners, 3rd edition*, (Washington D.C.: American Bar Association, 2011), 266.
- <sup>50</sup> American Bar Association, 2011, 264.
- <sup>51</sup> Council of State Governments, Reentry Policy Council, Policy Statement 13 in *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community* (New York: Council of State Governments, January 2005). Accessed January 4, 2013 from: <http://www.reentrypolicy.org/Report/PartII/ChapterII-B/PolicyStatement13/>.
- <sup>52</sup> Federal Bureau of Prisons Program Statement, 5265.11 Section 11.c (1), quoted in Declaration of Plaintiffs’ Expert Steve J. Martin, *Clay v. Pelle*, 5-6.
- <sup>53</sup> BOP Program Statement, 5265.11 Section 1, quoted in Declaration of Plaintiffs’ Expert Steve J. Martin, *Clay v. Pelle*, 6.
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- <sup>55</sup> National Research Council, *Ensuring the Quality, Credibility, and Relevance of U.S. Justice Statistics* (Washington DC: National Academies Press, 2009), 99.
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- <sup>59</sup> Human Rights Watch, *A Costly Move: Far and Frequent Transfers Impede Hearings for Immigrant Detainees in the United States* (New York: Human Rights Watch, June 14, 2011). Accessed December 2012 from: [http://www.hrw.org/sites/default/files/reports/us0611webwcover\\_0.pdf](http://www.hrw.org/sites/default/files/reports/us0611webwcover_0.pdf).
- <sup>60</sup> Mike Gallagher, “Prison Puts New Postcard Rule on Hold,” *Albuquerque Journal*, September 30, 2012. Accessed November 10, 2012 from: <http://www.abqjournal.com/main/2012/09/20/news/prison-puts-new-postcard-rule-on-hold.html>.
- <sup>61</sup> The question of whether or not postcard-only policies more effectively prevent contraband also arose during a lawsuit against a Washington jail’s postcard policy. In the judge’s order for an injunction against the postcard policy, he ruled, “Defendants have failed to offer evidence, or even an intuitive common-sense reason why the postcard-only mail policy more effectively prevents the introduction of contraband than opening and inspecting letters.” Opinion and order, *Prison Legal News v. Columbia County*, 17.

<sup>62</sup> Gallagher, 2012. See, also, for example, Milan Simonich, “Worker at Las Cruces-area prison allegedly supplied cocaine and heroin to inmate,” *El Paso Times*, June 18, 2012. Accessed September 18, 2012 from: [http://www.elpasotimes.com/newupdated/ci\\_20882835/prison-worker-supplied-cocaine-and-heroin-inmate](http://www.elpasotimes.com/newupdated/ci_20882835/prison-worker-supplied-cocaine-and-heroin-inmate); and Adam Camp, “NM Prisons: Police arrest 2nd smuggling employee within 6 weeks,” *KOB Eyewitness News 4*, July 31, 2012. Accessed September 18, 2012 from: <http://www.kob.com/article/stories/S2711525.shtml>.

<sup>63</sup> Gallagher, 2012.

<sup>64</sup> The Pinal County Sheriff’s Department changed its postcard-only policy in the middle of a lawsuit, *Prison Legal News v. Babeu*, No. 2:11-cv-01761-GMS, U.S.D.C. (D. Ariz.). The previous policy was accessed January 8, 2013 from: <http://web.archive.org/web/20080723194445/http://pinalcountyaz.gov/Departments/Sheriff/AdultDetentionCenter/Pages/FAQ.aspx>; the current policy was accessed January 8, 2013 from: <http://pinalcountyaz.gov/Departments/Sheriff/AdultDetentionCenter/Pages/FAQ.aspx>.

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<sup>67</sup> Letter from Jail Commander, Captain Dennis Steenrod to Ronald Rose, June 25, 2012. (On file with author).

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<sup>69</sup> Letter from Doug Bonney, Legal Director of the ACLU of Kansas and Western Missouri, to Captain Floyd Hunt, October 22, 2012. (On file with author.) As of January 8, 2013, the facility’s current mail policy is available at: [www.bucoks.com/DocumentCenter/View/125](http://www.bucoks.com/DocumentCenter/View/125).

<sup>70</sup> American Civil Liberties Union of Kansas & Western Missouri press release, “Bates County, Missouri, Jail Agrees to Drop Its Postcard-only Inmate Mail Policy,” July 20, 2012. (Document no longer available online, on file with author.) As of January 8, 2013, the current Bates County Jail mail policy is available at: [http://www.batescountysheriff.com/jail\\_mail.aspx](http://www.batescountysheriff.com/jail_mail.aspx).

<sup>71</sup> Nick McCann, “Judge Kills Jail’s Postcard-Only Rule,” *Courthouse News Service*, May 31, 2012. Accessed January 8, 2013 from: <http://www.courthousenews.com/2012/05/31/46976.htm>. As of January 8, 2013, the current policy is available at: <http://www.co.columbia.or.us/sheriff/images/pdfs/j603-r10.pdf>.

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<sup>75</sup> Author interview with jail official, January 8, 2013. As of January 8, 2013, the current mail policy is available at: <http://www.yakimacounty.us/doc/mailling.htm>.

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