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Of Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

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

No. 3:12-cv-0071-SI

Plaintiffs,

v.

DECLARATION OF GREGORY R.
ROBERSON

COLUMBIA COUNTY; COLUMBIA
COUNTY SHERIFF'S OFFICE; JEFF
DICKERSON, individual and in his capacity
as Columbia County Sheriff,

In Support of Defendants' Response to PLN's
Motion for Partial Summary Judgment on
Declaratory and Injunctive Relief

Defendants.

I, Gregory R. Roberson, declare as follows:

1. I am one the attorneys representing defendants in this matter. The statements in this declaration are based on my personal knowledge.
2. Attached as Exhibit A are true and accurate excerpts from the depositions of Jeffery M. Dickerson taken May 10, 2012 and August 28, 2012.
3. Attached as Exhibit B are true and accurate excerpts from the deposition of Andrew Moyer taken on July 16, 2012.
4. Attached as Exhibit C are true and accurate excerpts from the deposition of Bryan Cutright taken on May 9, 2012.

5. Attached as Exhibit D are true and accurate excerpts from the deposition of Raquel Miller taken on May 9, 2012.

6. Attached as Exhibit E is a true and accurate copy of an email sent to Bryan Cutright from the Oregon Jail Manager's Association listserv on April 29, 2012. This email is deposition exhibit No. 16.

7. Attached as Exhibit F is a true and accurate copy of one of several documents on a CD provided by Washington County Sheriff's Office's Jail Commander Marie Tyler from December 9, 2009.

8. Attached as Exhibit G is a true and accurate copy of a shift summary email for the Columbia County Jail dated September 16, 2011.

9. Attached as Exhibit H is a true and accurate copy of a jail incident report from January 23, 2012. This report is deposition exhibit No. 124.

10. Attached as Exhibit I is a true and accurate copy of a version of Washington County Sheriff's Office's Inmate Mail Policy. This document is deposition exhibit No. 10.

11. Attached as Exhibit J are true and accurate copies of correspondence from Prison Legal News/Human Rights Defense Center to inmates at the Columbia County Jail.

12. Attached as Exhibit K is a true and accurate copy of a newspaper article published on May 24, 2012 on *The Oregonian's* website.

13. Attached as Exhibit L are true and accurate copies of respondents' Notice of Compliance with Court's Partial Unsealing Order filed in *Garcia v. Chief Deputy David Tennesen*, Ventura County Superior Court Case No. MA-004-11 dated November 10, 2011. Included in the Notice are the declarations of Sergeant Rob Davidson, Tracy Martinez, Jerry Hernandez, a sworn detective of the Ventura County Sheriff's Department, Aaron Wilkinson, and Jeffrey Held.

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14. Attached as Exhibit M is a true and accurate copy of the Report of U.S. Magistrate Judge Patrick A. White in *Martinez v. May*, No. 11-cv-14039-MOORE (S.D. Fla. Apr. 25, 2012), followed by the docket available on the Southern District of Florida's CM/ECF showing that Judge White's Report was adopted by the Honorable K. Michael Moore on June 8, 2012.

**I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS
TRUE AND CORRECT.**

Respectfully submitted this 16th day of October, 2012.

By: /s/ Gregory R. Roberson
Gregory R. Roberson

Dickerson, Jeffrey

May 10, 2012

Page 1

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

PRISON LEGAL NEWS, a project
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CENTER,

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Plaintiff,

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COLUMBIA COUNTY; COLUMBIA
COUNTY SHERIFF'S OFFICE; JEFF
DICKERSON, individually and
in his capacity as Columbia
County Sheriff,

Defendants.

DEPOSITION OF JEFFREY M. DICKERSON

Taken in behalf of Plaintiff

May 10, 2012

Beovich Walter & Friend

Dickerson, Jeffrey

May 10, 2012

Page 26	Page 28
<p>1 A. I believe not. Things change, you know, over 2 time. And actually one of the, there's a person 3 who's not even here now who's on this page. 4 Q. And who is that? 5 A. Sergeant John McMiller. 6 Q. Okay. And how long ago did Sergeant John 7 McMiller cease to become an employee of the 8 corrections division? 9 A. In April. 10 Q. And is he still employed? Is that a man? 11 A. Yes. 12 Q. John, yes. 13 A. John, yes. 14 Q. Is Sergeant McMillan (sic) still employed by the 15 sheriff's department? 16 A. No. 17 Q. How did he become unemployed by the sheriff's 18 department? 19 A. He retired effective April 19th, I believe. 20 Q. Have you replaced him? 21 A. No. 22 Q. And was that April 19, 2012? 23 A. Yes. 24 Q. Do you intend to replace him? 25 A. No.</p>	<p>1 A. Other than the sergeants are the first listed, 2 no. 3 Q. There are one, two, three, four, five sergeants; 4 is that right? 5 A. Yes. 6 Q. And then subtracting John McMiller, there are 7 four? 8 A. There are now four. Correct. 9 Q. Okay. Would you please describe their longevity 10 with the sheriff's department. 11 A. Well, I can't know for sure. 12 Q. What is your -- We've heard from Sergeant 13 Cutright. What is your understanding of 14 approximately how long Sergeant Westfall has 15 been with the sheriff's department? 16 A. I'm not sure. It's been years. And she's a 17 senior person. 18 Q. Do you believe she has been there for 10 years 19 or more? 20 A. Probably. 21 Q. And Sergeant Miller? 22 A. I know that she started in control as a 23 technician and I think, again, I don't know 24 exactly the length of time that she was there. 25 Q. Do you think that she's been there for 10 years</p>
Page 27	Page 29
<p>1 Q. Why not? 2 A. Budget. I expect there will be more layoffs 3 soon and there's no reason, I mean, it wouldn't 4 make sense to hire someone to replace that. 5 Q. Okay. How many layoffs do you anticipate? 6 A. We have a staff reduction of approximately six 7 and a half positions, one of those positions 8 will obviously be Sergeant McMiller's position 9 and the remainder we have not made a final 10 decision. But there's probably another. One of 11 them is a jail commander position that we were 12 going to try to hire but we eliminated. 13 Q. So you'll need four-and-a-half more positions? 14 A. Yes. 15 Q. And do you know how many of them will come from 16 the corrections division? 17 A. I have not made that final decision. 18 Q. Okay. Do you have an estimate? 19 A. I estimate there will be four-and-a-half 20 positions that go. I can't -- 21 Q. You don't know where they'll come from? 22 A. I don't know at this time. 23 Q. Okay. Is there anything to be drawn from the 24 order in which these pictures and names are 25 there?</p>	<p>1 or more? 2 A. Possibly. 3 Q. You're not so sure as her compared to 4 Sergeant Westfall; is that right? 5 A. I'm not so sure. 6 Q. Sergeant Rigdon? 7 A. I think, again, I don't know for sure. 8 Q. Do you think he's been there for ten or more 9 years? 10 A. I don't know. 11 Q. Okay. 12 A. Maybe close. 13 Q. Okay. 14 A. Wait. Actually I can say yes because I know he 15 was in the previous jail. So yes. Yes, he's 16 been there ten or more years. 17 Q. Okay. You used the term "control" regarding 18 Sergeant Miller. What is control as you used 19 the term? 20 A. Well, originally when the new jail was built, 21 they have, we have a control room and they 22 designated technicians at a lower rate of pay 23 than deputy whose sole purpose was to, sole job 24 was to be in the control room and operate that 25 aspect of our jail.</p>

8 (Pages 26 to 29)

Beovich Walter & Friend

Dickerson, Jeffrey

May 10, 2012

Page 30	Page 32
<p>1 Q. The control room sits in the middle of a group 2 of pods? 3 A. Yes. 4 Q. It's kind of an enclosed structure? 5 A. Yes. 6 Q. And the person in the control booth can open and 7 close doors? 8 A. Doors, controls entrance and exits from the 9 facility -- 10 Q. Okay. 11 A. -- in general. Not just the jail, but the 12 entire sheriff's office. 13 Q. And you're saying Sergeant Miller was once a 14 technician whose job was to sit in the control 15 room and do those functions? 16 A. That's what I've heard. 17 Q. Okay. 18 A. It was before I was sheriff. 19 Q. Are you aware of any of the sergeants who have 20 more seniority of the sheriff's office than 21 Sergeant Cutright? 22 A. I believe, in fact, I know none have more 23 seniority than Sergeant Cutright. 24 Q. And do any of the deputies have more seniority 25 than Sergeant Cutright in the sheriff's</p>	<p>1 Q. Okay. Do all of the deputies have the same job 2 responsibilities? Let me rephrase this. 3 Okay. I realize that deputies might be 4 assigned to different shifts and during the 5 course of shifts there might be different 6 responsibilities. But what I'm trying to find 7 out is whether, as a general rule whenever a 8 deputy is assigned to a particular shift, their 9 responsibilities would be generally the same. A 10 sergeant might on one day ask them to do one 11 thing versus another, but do any of them have 12 specific assignments? 13 A. No, not really. I mean, they all have the same 14 job description. 15 Q. Okay. Are there special assignments? 16 A. From time to time. 17 Q. And who has the authority to issue a special 18 assignment to a deputy? 19 A. Any supervisor. 20 Q. Okay. And as you use the term "supervisor," 21 that would be the sergeant -- 22 A. Sergeant. 23 Q. -- undersheriff or you? 24 A. Yes. 25 Q. Those are the only supervisors currently; right?</p>
Page 31	Page 33
<p>1 department? 2 A. No. 3 Q. Who do you believe is your most senior deputy? 4 A. Most senior deputy? 5 Q. Yeah. And let me just say for the purpose of 6 these questions, I'm not asking about the 7 transportation and court security deputies. 8 A. Right. It is either Deputy Kyles or 9 Deputy Ritchie. I believe it's Kyles. 10 Q. And approximately how long do you think 11 Deputy Kyles has been at the sheriff's 12 department? 13 A. More than 10 years. 14 Q. How many deputies do you think you have who have 15 been there for five years or more? 16 A. Been there five years or more, would be nine. 17 Q. Nine of them? 18 A. Yes. 19 Q. Okay. So most of them; is that right? 20 A. Nine of the 16. I believe there are 16. Yeah. 21 Q. Okay. And we were there the other night doing 22 the inspection with Sergeant Miller and was it 23 Sergeant, excuse me, Deputy Moore who was there 24 that night as well? 25 A. I believe so.</p>	<p>1 A. Correct. 2 Q. When is the last time you had somebody in a 3 position other than those three supervisory 4 positions? 5 A. Would have been June 30th, 2011. 6 Q. Okay. And what happened on June 30th, 2011, 7 that changed? 8 A. Okay. I thought you weren't done. 9 Q. That's the end of my question. 10 A. That was the approximate date that Captain Jim 11 Carpenter retired. 12 Q. Okay. And he was the jail commander? 13 A. Correct. 14 Q. Was there anybody else during the course of your 15 tenure as elected sheriff who held a job title 16 as a supervisor other than sergeant, captain, 17 undersheriff or sheriff? 18 A. No. 19 Q. There's never been a lieutenant? 20 A. Sorry. I have to take that back. Yes. We have 21 had a lieutenant position. 22 Q. When? 23 A. It was in, I don't exactly remember the dates. 24 But we established it leading up to the 25 retirement of Captain Carpenter.</p>

9 (Pages 30 to 33)

Beovich Walter & Friend

Dickerson, Jeffrey

May 10, 2012

Page 210	Page 212
<p>1 MR. ROBERSON: Under the policy, Counsel?</p> <p>2 MR. WING: No.</p> <p>3 MR. ROBERSON: Object to form.</p> <p>4 Go ahead. You can answer.</p> <p>5 THE WITNESS: I would expect it. Sure.</p> <p>6 Q. BY MR. WING: Would there be any reason not, for</p> <p>7 that not to happen?</p> <p>8 A. No. No good reason.</p> <p>9 Q. Okay. Do you know what actually happened?</p> <p>10 A. No.</p> <p>11 Q. Okay.</p> <p>12 (Exhibit 67 marked for identification.)</p> <p>13 Q. BY MR. WING: Just look at Exhibit 67. This</p> <p>14 prisoner through the inmate request form says,</p> <p>15 "Could you provide me a copy of CCJ's new mail</p> <p>16 policy, please?" Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And do you see the date that this is being</p> <p>19 requested?</p> <p>20 A. Yes.</p> <p>21 Q. He then writes -- And the date is when, please?</p> <p>22 A. February 7, 2012.</p> <p>23 Q. That's after you adopted your January 26th</p> <p>24 policy; is that right?</p> <p>25 A. Yes.</p>	<p>1 new policy did not change how incoming and</p> <p>2 outgoing mail is treated?</p> <p>3 MR. ROBERSON: Form.</p> <p>4 THE WITNESS: That's not how I read this.</p> <p>5 Q. BY MR. WING: How do you read it?</p> <p>6 A. This inmate is asking for a copy of the new mail</p> <p>7 policy. "We were told that the recent changes</p> <p>8 would be posted." So he knows that there have</p> <p>9 been changes. They just haven't been posted</p> <p>10 yet. What I believe the sergeant is saying is</p> <p>11 what we told you is still in effect. We will</p> <p>12 get it out to you in written form as soon as we</p> <p>13 can, but there are still changes being made to</p> <p>14 the actual wording of the policy. Therefore, to</p> <p>15 put it in writing in some sort of final form for</p> <p>16 the inmates hasn't happened yet.</p> <p>17 Q. BY MR. WING: Okay. That's your interpretation</p> <p>18 of --</p> <p>19 A. That's my interpretation of what was written</p> <p>20 here.</p> <p>21 Q. Okay. Then later the answering deputy writes,</p> <p>22 "When the policy is finalized, the inmate</p> <p>23 portion will be made available via a pod memo."</p> <p>24 Is that right? Did I read it correctly?</p> <p>25 A. Yes.</p>
Page 211	Page 213
<p>1 Q. He then writes, "We were told that the recent</p> <p>2 changes would be posted in the units, but that</p> <p>3 has not happened." Then the answer at the</p> <p>4 bottom says, "The mail policy is changing and</p> <p>5 the information that affects inmates' mail as</p> <p>6 far as outgoing and incoming mail remains the</p> <p>7 same."</p> <p>8 Is that true?</p> <p>9 A. It's what he wrote. I'm not sure what you mean</p> <p>10 by "is that true."</p> <p>11 Q. Is it true that the new policy did not affect</p> <p>12 the incoming or outgoing mail?</p> <p>13 MR. ROBERSON: Object to form.</p> <p>14 THE WITNESS: If you're asking me -- I'm</p> <p>15 trying to figure out what you're asking me. I'm</p> <p>16 sorry.</p> <p>17 Q. BY MR. WING: I'm trying to be as direct as I</p> <p>18 can be. This prisoner has asked for a copy of</p> <p>19 the new policy; would you agree?</p> <p>20 A. Yes.</p> <p>21 Q. And the response says, as far as the incoming,</p> <p>22 outgoing mail goes, the policy is the same.</p> <p>23 Isn't that what he wrote?</p> <p>24 A. That's what he wrote.</p> <p>25 Q. And I'm asking you whether it's true that the</p>	<p>1 Q. Has that happened?</p> <p>2 A. Has it happened?</p> <p>3 Q. Yes.</p> <p>4 A. Yes.</p> <p>5 Q. And that's the inmate...</p> <p>6 A. Mail guide.</p> <p>7 Q. Inmate mail guide?</p> <p>8 A. Yes.</p> <p>9 Q. And we've talked about the fact that that</p> <p>10 doesn't include information about due process;</p> <p>11 right?</p> <p>12 A. That's correct.</p> <p>13 Q. And it does not include a clarification that</p> <p>14 magazines are allowed; right?</p> <p>15 A. Right. But it doesn't prohibit the magazine.</p> <p>16 Q. And then it says, the deputy says, "After the</p> <p>17 policy is finalized, that will be placed in the</p> <p>18 new upcoming inmate manual"; is that right?</p> <p>19 A. That's correct.</p> <p>20 Q. When will the new inmate manual be coming out?</p> <p>21 A. It is in the hands of legal counsel. I'm</p> <p>22 waiting.</p> <p>23 Q. Okay. And this inmate was told this back on</p> <p>24 February 8th, 2012; right?</p> <p>25 A. Yes.</p>

54 (Pages 210 to 213)

Beovich Walter & Friend

Dickerson, Jeffrey

May 10, 2012

Page 214	Page 216
<p>1 Q. Okay. And you are still using the same inmate 2 manual that you've used; is that right? 3 A. Yes. 4 Q. Okay. Can we please look at Exhibit 51. If 5 you'd look under the, on the first page, 6 paragraph number four, the second sentence 7 reads, "Legal mail will be limited to a 8 reasonable amount and may be sent in addition to 9 personal mail." Then it defines legal mail as 10 correspondence to or from. Do you see that? 11 A. Yes. 12 Q. There's a list of them A through, and it goes 13 through H on the next page; right? 14 A. Yes. 15 Q. And what does H say? 16 A. "Editor of any newspaper." 17 Q. Is that still how legal mail is defined? 18 A. I don't know. 19 Q. Do you believe that the editor of any newspaper, 20 that mail to and from the editor of any 21 newspaper to prisoners or from prisoners should 22 be treated as legal mail? 23 A. We've changed our definitions. And so I don't 24 know which one it falls under. 25 Q. Okay. But I'm asking you whether you think it</p>	<p>1 A. According to policy, yes. 2 Q. And so when you started there was the graveyard 3 shift inspecting the mail? 4 A. I don't know. 5 Q. Were you responsible for shifting it from 6 graveyard to daytime? 7 A. No. 8 Q. Do you know who was? 9 A. No, I do not. 10 Q. Okay. Let's talk about your current mail 11 policy. You've identified some terms, junk 12 mail, bulk mail, personal mail. Do you know 13 what the definitions of those are or would you 14 need to look them up? 15 A. I would need to look them up. 16 Q. Okay. Let's get you a copy of the policies 17 which you attached to your declaration. 18 Remember. So that's Exhibit 3. I think that is 19 right there. If you want to check, I believe 20 Exhibit F is your current policy. 21 A. Okay. 22 Q. If you wanted to find out what the definition of 23 personal mail is, where would you look in your 24 current policy? 25 A. It's in the definitions on page 2.</p>
Page 215	Page 217
<p>1 should be? 2 A. Under legal mail, no. 3 Q. For a period of time that's how you treated it, 4 however, right, until you came up with a new 5 policy? 6 A. Yes. 7 Q. Do you know why? 8 A. No. 9 Q. Can you turn to the last page, please. 10 Paragraph number four there says, "Graveyard 11 shift will log all outgoing mail in the inmate 12 management computer." Do you see that? 13 MR. ROBERSON: I don't, Counsel. 14 MR. WING: You know what, this is extra 15 copies. It looks like the beginning of the new 16 policy was added on there by mistake. Do you 17 see that, Greg? You've got extra pages that 18 should be taken off. You need page 5. Those 19 two. Okay. 20 Q. BY MR. WING: So if you look at page 5, do you 21 see paragraph 4 where it says, "Graveyard shift 22 will log all outgoing mail"? Do you see that? 23 A. Yes. 24 Q. Is that when mail was, outgoing mail was 25 inspected on graveyard shift?</p>	<p>1 Q. Okay. Does it look accurate to you? 2 A. Looks exactly like what I believe our policy to 3 be, yes. 4 Q. Are letters that are sent to prisoners, fall 5 within the definition of personal mail? 6 A. Not according to our policy. 7 Q. So when you were testifying earlier that 8 materials sent by Lucy Lenuox in an envelope to 9 prisoner was censored because it was personal 10 mail, are you saying that's not true under your 11 policy? 12 A. What our policy recognizes is allowable personal 13 mail. 14 Q. I don't understand your answer. Can you explain 15 what you mean? 16 A. What I mean is what this is talking about is 17 those things that we will allow. And personal 18 mail is, the only personal mail that's going to 19 be allowed in is going to be a postcard that's 20 mailed to or from family, friends, businesses 21 organizations or other unofficial entities. 22 Q. Okay. Are we in agreement though that this is, 23 whenever we look through the policy and find the 24 phrase "personal mail," this is what it means? 25 A. Yes.</p>

55 (Pages 214 to 217)

Beovich Walter & Friend

Dickerson, Jeffrey

May 10, 2012

Page 270	Page 272
<p>1 A. Staples could become contraband.</p> <p>2 Q. The jail gives publications to the inmates that</p> <p>3 have staples; right?</p> <p>4 A. I believe so, but I -- I just don't know. I</p> <p>5 really don't know if they do or not.</p> <p>6 Q. Like the inmate manual, for example; right?</p> <p>7 A. Oh, yeah. True.</p> <p>8 Q. Are the staples different?</p> <p>9 A. Probably not.</p> <p>10 Q. Have you been given any information besides what</p> <p>11 you learned today that the prison staff, the</p> <p>12 jail staff are having a hard time, making</p> <p>13 mistakes, applying your new mail policy?</p> <p>14 A. No.</p> <p>15 Q. You've seen some references today to how your</p> <p>16 staff made wrong rejections and failed to issue</p> <p>17 notices for due process in the past; right?</p> <p>18 A. Prior to February 1st?</p> <p>19 Q. Yes.</p> <p>20 A. Yes.</p> <p>21 Q. What steps do you have in place to monitor how</p> <p>22 your staff is complying with your new policy?</p> <p>23 A. The only steps we have are through the grievance</p> <p>24 process.</p> <p>25 Q. So if a prisoner doesn't grieve it, you're not</p>	<p>1 MR. WING: Okay. Let me take a short break.</p> <p>2 I think that I may be just about done here.</p> <p>3 (Break taken from 5:59 to 6:13.)</p> <p>4 (Exhibits 70 and 71 marked for</p> <p>5 identification.)</p> <p>6 Q. BY MR. WING: I just have a little more to</p> <p>7 cover. Sheriff Dickerson, if an inmate manual</p> <p>8 has not been signed by you, is it possible that</p> <p>9 it's nevertheless used?</p> <p>10 A. It's possible.</p> <p>11 Q. Okay. You remember signing another inmate</p> <p>12 manual during your tenure as a sheriff besides</p> <p>13 the one that is Exhibit 50?</p> <p>14 A. I don't remember if I've signed more than one.</p> <p>15 Q. Okay. Now, just, we're not going to spend time</p> <p>16 going through this, but handing you Exhibit 70,</p> <p>17 have you seen this before?</p> <p>18 A. It's the Oregon jail standards. I've seen</p> <p>19 Oregon jail standards before.</p> <p>20 Q. Okay. This, as you'll see, is dated</p> <p>21 January 2012. Do you think you've seen this</p> <p>22 version?</p> <p>23 A. No, I have not seen this version.</p> <p>24 Q. Okay. You think you've seen one before January</p> <p>25 of 2012?</p>
Page 271	Page 273
<p>1 monitoring it?</p> <p>2 A. Correct. Or if we don't get a prohibited, an</p> <p>3 appeal back from a sender.</p> <p>4 (Exhibit 69 marked for identification.)</p> <p>5 Q. BY MR. WING: Handing you Exhibit 69, is this an</p> <p>6 e-mail from Sarah Hanson?</p> <p>7 A. Yes.</p> <p>8 Q. Do you --</p> <p>9 A. Yes.</p> <p>10 Q. And do you recall getting this e-mail on</p> <p>11 February 6, 2012?</p> <p>12 A. It's familiar to me.</p> <p>13 Q. Okay. What, if anything, did you do when you</p> <p>14 received this?</p> <p>15 A. I'm not sure.</p> <p>16 Q. Have you received other e-mails through the</p> <p>17 e-mails from an Elmer Dickens through your</p> <p>18 LISTSERV participation?</p> <p>19 A. I don't think I receive, I don't think I've ever</p> <p>20 received an e-mail from Elmer Dickens.</p> <p>21 Q. I guess I mean have you received e-mails that</p> <p>22 were authored by him that come to you through</p> <p>23 the Oregon Sheriffs' Association?</p> <p>24 A. Perhaps. I'm not sure where they come from. I</p> <p>25 know I've seen comments of his before.</p>	<p>1 A. Yes.</p> <p>2 Q. Had you compared your current mail policy</p> <p>3 against the mail standards of the Oregon</p> <p>4 Sheriffs' Association?</p> <p>5 A. No.</p> <p>6 Q. Why not?</p> <p>7 A. Because we relied on the Washington County</p> <p>8 policy as a, as a go-by.</p> <p>9 Q. Okay. I hand you Exhibit 71. If you look past</p> <p>10 the first page, I'm sorry, on Exhibit 71, you</p> <p>11 see that it looks like those are audit forms.</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Have you ever asked somebody from the Oregon</p> <p>15 Sheriffs' Association or at their behest to</p> <p>16 audit your mail policy?</p> <p>17 A. No.</p> <p>18 Q. Do you think that would be a good idea?</p> <p>19 A. I don't think it's necessary.</p> <p>20 Q. Okay. Did you learn anything in today's</p> <p>21 deposition that will cause you to make changes</p> <p>22 to your policies or procedures?</p> <p>23 A. We will continue the review process of our mail</p> <p>24 policy. And certainly any information that I</p> <p>25 have gotten from today, once I'm able to review</p>

69 (Pages 270 to 273)

Beovich Walter & Friend

Dickerson, Jeffrey

May 10, 2012

Page 284

C E R T I F I C A T E

I, Aleshia K. Macom, CSR No. 94-0296, do hereby certify that JEFFREY M. DICKERSON personally appeared before me at the time and place mentioned in the caption herein; that the witness was by me first duly sworn on oath, and examined upon oral interrogatories propounded by counsel; that said examination, together with the testimony of said witness, was taken down by me in stenotype and thereafter reduced to typewriting; and that the foregoing transcript, Pages 1 to 283, both inclusive, constitutes a full, true and accurate record of said examination of and testimony given by said witness, and of all other proceedings had during the taking of said deposition, and of the whole thereof, to the best of my ability.

Witness my hand at Portland, Oregon, this 5th day of June, 2012.



A handwritten signature in cursive script, appearing to read "Aleshia K. Macom", written over a horizontal line.

Aleshia K. Macom

CSR No. 94-0296

Beovich Walter & Friend

Dickerson, Jeffrey - Vol. 2

August 28, 2012

Page 286

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

PRISON LEGAL NEWS, a project
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No. 3:12-CV-71-SI

Plaintiff,

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COLUMBIA COUNTY; COLUMBIA
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VOLUME II

DEPOSITION OF JEFFREY M. DICKERSON

Taken in behalf of Plaintiff

August 28, 2012

Beovich Walter & Friend

Dickerson, Jeffrey - Vol. 2

August 28, 2012

Page 363	Page 365
<p>1 A. I've committed that to staff.</p> <p>2 Q. At what level?</p> <p>3 A. The undersheriff.</p> <p>4 Q. Is that written down anywhere?</p> <p>5 A. I believe it's in our mail guide.</p> <p>6 Q. That means if somebody appeals it up through the</p> <p>7 process to him, is that what you mean?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. But if an inmate writes that they think</p> <p>10 their 1st Amendment or 14th Amendment rights are</p> <p>11 being violated by the mail policy or the</p> <p>12 practices of the jail and they notify one of the</p> <p>13 lieutenants of that, the lieutenant has no</p> <p>14 obligation to draw that to your attention or the</p> <p>15 attention of the undersheriff, according to your</p> <p>16 policy; is that right?</p> <p>17 A. I don't know. I don't, I can't comment on that</p> <p>18 without reading the policy.</p> <p>19 Q. So you're not aware of a provision?</p> <p>20 A. Not aware that there is or that there isn't.</p> <p>21 MR. WING: Why don't we take a break.</p> <p>22 (Break taken from 12:02 to 12:36.)</p> <p>23 Q. BY MR. WING: Sheriff Dickerson.</p> <p>24 A. Yes.</p> <p>25 Q. Remember we looked at Exhibit 143?</p>	<p>1 Q. BY MR. WING: I'm handing you Exhibit 154. This</p> <p>2 says that Defendants' responses to Plaintiff's</p> <p>3 second interrogatories and request for</p> <p>4 production to all defendants. Do you see that?</p> <p>5 A. On which page is this?</p> <p>6 Q. That is the caption.</p> <p>7 A. Oh, okay. Yeah.</p> <p>8 Q. Just trying orient you to what this is.</p> <p>9 A. All right.</p> <p>10 Q. And attached is several documents. Okay.</p> <p>11 A. Okay.</p> <p>12 Q. And the last two appear to be the front and the</p> <p>13 back cover of a magazine of Muscle and</p> <p>14 Fitness --</p> <p>15 A. Okay.</p> <p>16 Q. -- with a woman in a bathing suit on the first</p> <p>17 one and a woman covering her breasts on the</p> <p>18 second page. Do you see those?</p> <p>19 A. Yes.</p> <p>20 Q. Do you have any idea, were these used in a</p> <p>21 training about mail?</p> <p>22 A. I believe they, I believe that there was a</p> <p>23 magazine that was passed around to deputies.</p> <p>24 Q. What was your understanding of the purpose of</p> <p>25 using that magazine in the training?</p>
Page 364	Page 366
<p>1 A. Yes.</p> <p>2 Q. And I think that I just asked you to identify</p> <p>3 the first page but not the second page. Could</p> <p>4 you identify the second page for me.</p> <p>5 A. The second page appears to be another, a</p> <p>6 separate course attendance roster. And I, if I</p> <p>7 recall, it's for those who might have missed the</p> <p>8 original training.</p> <p>9 Q. It appears like it's a different group of</p> <p>10 people.</p> <p>11 A. Yes.</p> <p>12 Q. But the same training?</p> <p>13 A. Same.</p> <p>14 Q. Is that your interpretation at least?</p> <p>15 A. Same basic training, yes.</p> <p>16 Q. And when is the date of the second training?</p> <p>17 A. August 8th is what it says here.</p> <p>18 Q. Okay. So little more than a month after the</p> <p>19 first training?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Thank you. And again, you did not attend</p> <p>22 the August training either; is that right?</p> <p>23 A. That's correct.</p> <p>24 Q. Okay.</p> <p>25 (Exhibit 154 marked for identification.)</p>	<p>1 A. To illustrate how our definition of --</p> <p>2 Q. Sexually explicit?</p> <p>3 A. -- sexually explicit had changed.</p> <p>4 Q. So the training in July and August regarding the</p> <p>5 mail policy was not limited to the issues that</p> <p>6 have been raised in this lawsuit?</p> <p>7 A. That's correct.</p> <p>8 Q. Okay. Do you know of other issues in the mail</p> <p>9 policy that were discussed besides the sexually</p> <p>10 explicit definition that were not part of the</p> <p>11 issues in this lawsuit?</p> <p>12 A. I'd have to review the PowerPoint to, and our,</p> <p>13 and our, and the lawsuit to be able to comment</p> <p>14 on that.</p> <p>15 Q. Okay. Do you believe there were others?</p> <p>16 A. I don't know.</p> <p>17 Q. Showing you again Exhibit 150, which is your</p> <p>18 answers to the plaintiff's third request for</p> <p>19 written discovery. Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Request number 50 asks for, it says, "Please</p> <p>22 produce all Columbia County Jail policies and</p> <p>23 procedures regarding grievances by inmates,</p> <p>24 complaints by nonprisoners, communications from</p> <p>25 any person or entity alleging violation of the</p>

21 (Pages 363 to 366)

Beovich Walter & Friend

Dickerson, Jeffrey - Vol. 2

August 28, 2012

Page 375	Page 377
<p>1 A. Yes.</p> <p>2 Q. Were you aware that the county deleted his</p> <p>3 e-mails in April of 2012?</p> <p>4 A. I think I did, I did learn of that, yes.</p> <p>5 Q. Would that have been in violation of the</p> <p>6 instructions to preserve?</p> <p>7 A. I don't know.</p> <p>8 Q. Did you give any instructions that documents</p> <p>9 like these not be deleted?</p> <p>10 A. I don't instruct county IT on anything.</p> <p>11 Q. Okay. So the answer is no?</p> <p>12 A. No.</p> <p>13 Q. You did not give any instructions?</p> <p>14 A. No. They don't report to me.</p> <p>15 Q. And when you found out -- When did you find out</p> <p>16 that Sergeant McMiller's e-mails were deleted?</p> <p>17 A. I don't know.</p> <p>18 Q. Was it just recently or back in April?</p> <p>19 A. I don't know. I don't know if it was, how far</p> <p>20 back it was.</p> <p>21 Q. Did you contact anybody and say, this shouldn't</p> <p>22 be happening?</p> <p>23 A. My understanding, like I said, I don't know that</p> <p>24 this is a violation of The Court's, of the</p> <p>25 requirements in this case. I don't know that.</p>	<p>1 that.</p> <p>2 Q. And by "it" you're referring to the court order;</p> <p>3 right?</p> <p>4 A. No.</p> <p>5 Q. What were you referring to?</p> <p>6 A. The concept that, of running a constitutional</p> <p>7 jail.</p> <p>8 Q. So you are not answering questions about the</p> <p>9 court order? Let me just suggest, let's look at</p> <p>10 the paragraph in front of it.</p> <p>11 MR. KRAEMER: What's this have to do with</p> <p>12 failure to mitigate damages? I'm lost. It's an</p> <p>13 article that comes out a couple weeks ago.</p> <p>14 MR. WING: Uh-huh.</p> <p>15 MR. KRAEMER: It doesn't have to do with, I</p> <p>16 don't see what it has to do with failure to</p> <p>17 mitigate damages defense.</p> <p>18 MR. WING: Well, it has to do with, you and</p> <p>19 I don't agree about this, about what needs to</p> <p>20 happen in this deposition, but this has to do</p> <p>21 with the sheriff's publicly stated views about</p> <p>22 this lawsuit and about complying with The</p> <p>23 Court's order.</p> <p>24 Q. BY MR. WING: So I'd like to ask if you'd please</p> <p>25 look at the paragraph in front of this which</p>
Page 376	Page 378
<p>1 Q. So is it fair to say you did not contact</p> <p>2 anybody --</p> <p>3 A. No, I did not.</p> <p>4 Q. -- and say this should not be happening?</p> <p>5 A. No.</p> <p>6 Q. That is correct?</p> <p>7 A. That is correct.</p> <p>8 Q. Thank you. Excuse me for a minute. I'm looking</p> <p>9 for something that I had set down. Maybe we can</p> <p>10 just go off the record for a minute.</p> <p>11 (Break taken from 12:58 to 12:59.)</p> <p>12 (Exhibit 157 marked for identification.)</p> <p>13 Q. BY MR. WING: Sheriff, I'm handing you</p> <p>14 Exhibit 157. Have you read this, this article</p> <p>15 about your case in Portland Tribune?</p> <p>16 A. Yes, I have.</p> <p>17 Q. You were quoted in that article; right?</p> <p>18 A. Yes.</p> <p>19 Q. Were you quoted accurately? It's down about</p> <p>20 eight paragraphs.</p> <p>21 A. Yeah. I know what you're referring to. I don't</p> <p>22 know.</p> <p>23 Q. It says, I certainly have strong views about it.</p> <p>24 Do you see that?</p> <p>25 A. Yeah. I probably made a comment similar to</p>	<p>1 says, "Dickerson would not comment in detail</p> <p>2 about the pending lawsuit which continues to be</p> <p>3 active despite the sheriff complying with the</p> <p>4 court order in modifying the jail's policy to</p> <p>5 realow nonpersonal, nonpostcard personal</p> <p>6 correspondence. Wright and his law team is</p> <p>7 working toward getting a permanent injunction."</p> <p>8 Then it quotes you as saying, "I certainly have</p> <p>9 strong views about it, Dickerson said Monday."</p> <p>10 You're saying "it" is not about the lawsuit or</p> <p>11 The Court's order?</p> <p>12 A. It is about a wider concept than just the</p> <p>13 lawsuit or The Court's order. The writer</p> <p>14 obviously applied it to just The Court's order.</p> <p>15 Q. And what are your strong views about it?</p> <p>16 A. I think I've stated what my strong views are,</p> <p>17 that my strong view is that I would, I really</p> <p>18 want to believe that we would be running a</p> <p>19 constitutional jail and that if there's anything</p> <p>20 that shows up to show that we're not doing so,</p> <p>21 we want to change it and make it right.</p> <p>22 Q. Did The Court get it wrong in issuing the</p> <p>23 preliminary injunction?</p> <p>24 MR. KRAEMER: Object to form. Calls for a</p> <p>25 legal conclusion. And how does, again, I'm</p>

24 (Pages 375 to 378)

Beovich Walter & Friend

Dickerson, Jeffrey - Vol. 2

August 28, 2012

Page 379	Page 381
<p>1 totally beyond how this has to do with the</p> <p>2 failure to mitigate damages.</p> <p>3 MR. WING: Well, I've already stated my</p> <p>4 view. And if the sheriff --</p> <p>5 MR. KRAEMER: Okay. You can answer whether</p> <p>6 he got it wrong and I'll see where I go from</p> <p>7 there.</p> <p>8 THE WITNESS: I don't, I'm not even</p> <p>9 concerned with that, whether -- I don't judge</p> <p>10 whether The Court got it wrong or not. What I</p> <p>11 consider is that the judge made a ruling and</p> <p>12 we're going to go with what the judge said. And</p> <p>13 I'm not fighting against it. I'm not opposed to</p> <p>14 it. We're moving on.</p> <p>15 Q. BY MR. WING: So far as I understand it, you are</p> <p>16 not agreeing to a permanent injunction; right?</p> <p>17 MR. KRAEMER: Don't answer that question.</p> <p>18 Q. BY MR. WING: So are you refusing to answer?</p> <p>19 A. Yes.</p> <p>20 MR. KRAEMER: Yes. And we are way beyond</p> <p>21 the seven hours also.</p> <p>22 Q. BY MR. WING: Do you have strong views about</p> <p>23 that?</p> <p>24 MR. KRAEMER: Don't answer that question.</p> <p>25 Q. BY MR. WING: Are you refusing to answer?</p>	<p>1 MR. KRAEMER: About the scope of the</p> <p>2 lawsuit?</p> <p>3 MR. WING: I'm sorry. The scope of the</p> <p>4 deposition.</p> <p>5 MR. KRAEMER: All right.</p> <p>6 MR. WING: Okay. If I understand you, your</p> <p>7 position is that you would allow questions at</p> <p>8 the sheriff's deposition regarding the</p> <p>9 defendants' mitigation of damages defense and</p> <p>10 about documents that should have been produced</p> <p>11 previously but were not produced previously and</p> <p>12 no other topics.</p> <p>13 MR. KRAEMER: Well, actually I think that</p> <p>14 that summary -- No. I disagree. End of that.</p> <p>15 MR. WING: Can you articulate it?</p> <p>16 MR. KRAEMER: Yeah. First off, clearly over</p> <p>17 the last two-plus hours you have asked questions</p> <p>18 that fall outside the parameters of those issues</p> <p>19 and I've let you do it. We have a time limit.</p> <p>20 You are way past the time limit. And I want to</p> <p>21 emphasize when I say that so the record is</p> <p>22 clear, I don't think your time limit applies to</p> <p>23 those documents that we didn't produce and</p> <p>24 should have because I'm willing to agree you</p> <p>25 would say, well, I would have asked the prior</p>
Page 380	Page 382
<p>1 A. Yes.</p> <p>2 Q. Sheriff, we've gone over a series of inmate</p> <p>3 request forms which dealt with requests from</p> <p>4 prisoners like, to use a razor, clippers instead</p> <p>5 of a razor. Do you remember those?</p> <p>6 A. I do know that.</p> <p>7 Q. Request to use a computer?</p> <p>8 A. Yep.</p> <p>9 Q. Then we went over a series of e-mails which</p> <p>10 identified some of the same topics but also</p> <p>11 those e-mails included Sergeant Rigdon going to</p> <p>12 bat for a prisoner to get \$4.74 back. Do you</p> <p>13 remember those e-mails?</p> <p>14 A. Yes.</p> <p>15 Q. Are you aware of any other instances in which</p> <p>16 the jail, the sheriff's department changed its</p> <p>17 policies or procedures as a result of a</p> <p>18 complaint or request?</p> <p>19 A. As I sit here now I can't think of anything that</p> <p>20 would apply to that.</p> <p>21 MR. WING: Okay. Steve, I want to avoid</p> <p>22 belaboring this topic. I want to summarize our,</p> <p>23 what I understand your position to be about the</p> <p>24 scope of this lawsuit so that we don't have a</p> <p>25 disagreement about --</p>	<p>1 questions differently so I could maximize the</p> <p>2 time. So I don't agree that they apply to that</p> <p>3 and I think Judge Simon's ruling was clear that</p> <p>4 if you needed beyond the time you're allowed to</p> <p>5 ask questions under the failure to mitigate,</p> <p>6 you're entitled to a reasonable amount of time</p> <p>7 beyond the time limit. I agree with that. He</p> <p>8 didn't make that ruling, but I have no problem</p> <p>9 with that.</p> <p>10 But even setting those aside, I think you</p> <p>11 were beyond the time you're allowed on other</p> <p>12 issues that you have talked about. I've allowed</p> <p>13 you to go into other issues. And to me it's</p> <p>14 just a matter of you want to stretch the leash</p> <p>15 further or farther out than I'm letting it</p> <p>16 beyond what I understand to be the scope of this</p> <p>17 deposition.</p> <p>18 MR. WING: I'm trying to encapsulate this so</p> <p>19 that if we do have to address this with The</p> <p>20 Court, it's as simple as possible. I understand</p> <p>21 from your perspective you've allowed me to go</p> <p>22 further, but you've also then said, that's it.</p> <p>23 No more. And so I'm trying to articulate. I</p> <p>24 think you've said you believe the purpose of</p> <p>25 this deposition should be limited to asking</p>

25 (Pages 379 to 382)

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C E R T I F I C A T E

I, Aleshia K. Macom, CSR No. 94-0296, do hereby certify that JEFFREY M. DICKERSON personally appeared before me at the time and place mentioned in the caption herein; that the witness was by me first duly sworn on oath, and examined upon oral interrogatories propounded by counsel; that said examination, together with the testimony of said witness, was taken down by me in stenotype and thereafter reduced to typewriting; and that the foregoing transcript, Pages 286 to 389, both inclusive, constitutes a full, true and accurate record of said examination of and testimony given by said witness, and of all other proceedings had during the taking of said deposition, and of the whole thereof, to the best of my ability.

Witness my hand at Portland, Oregon, this 6th day of September, 2012.



Aleshia K. Macom

CSR No. 94-0296

Moyer, Andrew

July 6, 2012

Page 1

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

PRISON LEGAL NEWS, a project
of the Human Rights Defense
Center,

No. 3:12-CV-71-SI

Plaintiff,

v.

COLUMBIA COUNTY; COLUMBIA
COUNTY SHERIFF'S OFFICE; JEFF
DICKERSON, individually and
in his capacity as Columbia
County Sheriff,
Defendants.

DEPOSITION OF ANDREW MOYER
Taken in behalf of Plaintiff
July 6, 2012

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 26	Page 28
<p>1 back from retirement to work on facilities</p> <p>2 issues. We have a, I'm not sure of her exact</p> <p>3 title, I believe it's office manager Millie</p> <p>4 Wagner reports directly to him, and animal</p> <p>5 control reports directly to the sheriff</p> <p>6 currently.</p> <p>7 Q. No one else?</p> <p>8 A. Not that I can recall.</p> <p>9 Q. Okay. So was the reorganization effective</p> <p>10 approximately June 23rd?</p> <p>11 A. Yeah. The lieutenants' positions were. The</p> <p>12 layoffs were effective June 28th.</p> <p>13 Q. Just to be clear, did you say that there was</p> <p>14 just one lieutenant or more?</p> <p>15 A. There is two lieutenants assigned to the</p> <p>16 corrections division and one lieutenant in the</p> <p>17 enforcement division.</p> <p>18 Q. And who is the other lieutenant besides</p> <p>19 Lieutenant McDowall who is assigned to the</p> <p>20 corrections division?</p> <p>21 A. Lieutenant Tony Weaver, Jr.</p> <p>22 Q. Is there a lieutenant, or excuse me. Is there a</p> <p>23 Tony Weaver, Sr., who is in any way involved in</p> <p>24 the sheriff's department?</p> <p>25 A. Yes. He's retired.</p>	<p>1 A. Yes.</p> <p>2 Q. Okay.</p> <p>3 A. Because in, January 1st the fiscal year of</p> <p>4 January 1, 2011, we lost funding for the jail</p> <p>5 commander's position, which we additionally</p> <p>6 tried to get back this year and we lost. And</p> <p>7 then losing the, we laid off the sergeants based</p> <p>8 upon a budgetary need because of we're allowed</p> <p>9 to lay off and required to lay off per the union</p> <p>10 contract by classification. And they are a</p> <p>11 separate classification and they are a</p> <p>12 classification that cost the most amount of</p> <p>13 money. And so by laying off so many, X</p> <p>14 sergeants, we, you know, if we were to make that</p> <p>15 up at the deputy level, we would have had to lay</p> <p>16 off more employees that make up that cost</p> <p>17 difference. But you still have to have a</p> <p>18 supervisor. And by reducing the amount of</p> <p>19 supervisors, it creates that work, more of a</p> <p>20 workload. And so they're going to have more</p> <p>21 authority and also to do some of the stuff that</p> <p>22 sergeants didn't do, since we lost the jail</p> <p>23 position, the jail commander's position two</p> <p>24 years in a row. So we have given them, the</p> <p>25 lieutenants have slightly more authority and</p>
Page 27	Page 29
<p>1 Q. Okay.</p> <p>2 A. But yes. His father worked for the jail for</p> <p>3 several years.</p> <p>4 Q. Okay. So both lieutenants are of equal rank?</p> <p>5 A. Yes.</p> <p>6 Q. That is, one doesn't report to the other?</p> <p>7 A. Correct.</p> <p>8 Q. They both report to you?</p> <p>9 A. They both report to me.</p> <p>10 Q. Does your department have a new organizational</p> <p>11 chart that's in writing?</p> <p>12 A. I don't believe so. I believe our old current</p> <p>13 org charts, because we didn't specify it by name</p> <p>14 or rank, so it specifies sheriff, undersheriff</p> <p>15 and then it breaks out divisions. Basically</p> <p>16 that hasn't changed. That still applies. So</p> <p>17 there's not been a new one created since</p> <p>18 June 28th. But for the most part, the old one</p> <p>19 still applies because there's no ranks or names</p> <p>20 in that.</p> <p>21 Q. Okay. Could you just simply explain why the</p> <p>22 denomination lieutenants as opposed to</p> <p>23 sergeants? It's just not immediately clear to</p> <p>24 me why you leave one or the other rank out. Is</p> <p>25 there a difference in duties?</p>	<p>1 responsibility than the sergeants would have.</p> <p>2 Q. Okay. Were the sergeants collectively</p> <p>3 bargaining?</p> <p>4 A. Yes.</p> <p>5 Q. Was that part of the union?</p> <p>6 A. Yes.</p> <p>7 Q. And are the lieutenants?</p> <p>8 A. No.</p> <p>9 Q. So they're management?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Thank you. Was your work as a trooper or</p> <p>12 a cadet your first law enforcement involvement?</p> <p>13 A. No. I joined the State Police as an Explorer</p> <p>14 scout.</p> <p>15 Q. I don't know what that means, please.</p> <p>16 A. A lot of agencies -- It's confusing for, this is</p> <p>17 kind of confusing because under the State Police</p> <p>18 at the time, State Police currently doesn't have</p> <p>19 any Explorers or cadets, but at the time they</p> <p>20 had Explorers and cadets. A lot of agencies now</p> <p>21 they have cadets and that's what State Police</p> <p>22 Explorers were.</p> <p>23 So an Explorer is kind of like a branch of</p> <p>24 the Boy Scouts but police agencies have them as,</p> <p>25 it's like a Boy Scout type group that studied</p>

8 (Pages 26 to 29)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

<p style="text-align: right;">Page 74</p> <p>1 A. Nothing that I haven't passed on to the 2 attorneys. 3 Q. Well, do you remember seeing such a thing that 4 you passed on to the attorneys? 5 A. I don't remember. 6 Q. Okay. You have, since January 2012, since this 7 lawsuit was filed, become much more actively 8 involved in the adoption of and changes to the 9 mail policies; is that right? 10 A. Much more active than prior to January? 11 Q. Yes. 12 A. Yes. 13 Q. Okay. And did you play any role in what was 14 posted on the website about the inmate mail 15 policy, the sheriff of Columbia County's 16 website? 17 A. What's on our website currently? 18 Q. From January -- 19 A. Prior. 20 Q. After we filed our lawsuit, do you know what 21 happened to the text that was on the sheriff's 22 website? 23 A. At some point in time we removed it. 24 Q. And did you participate in that decision to 25 remove it?</p>	<p style="text-align: right;">Page 76</p> <p>1 of the jail cells? 2 A. Yes. 3 Q. And -- 4 A. Not me personally. 5 Q. Who did? 6 A. Don't know. It was assigned to down, I believe 7 it might have even been deputies or sergeants. 8 Q. And this, do you recall that Ms. Chamberlain and 9 I came to do an inspection of the jail? 10 A. I know you did. I was not there. 11 Q. I understand. But you knew we were going to be 12 coming; right? 13 A. Yes. 14 Q. Okay. And do you recollect that at 15 approximately the night of May 8th, going into 16 May 9th, we were going to be showing up at your 17 jail? 18 A. I don't recall what the date was. 19 Q. But does that sound about right? 20 A. To be honest, I don't remember. 21 Q. Okay. And did you instruct one of the deputies 22 to put this in the dayroom shortly before we 23 came to the jail? 24 A. I don't know when I did in relation to your 25 inspection.</p>
<p style="text-align: right;">Page 75</p> <p>1 A. No. 2 Q. How did you find out it was being removed? 3 A. I don't recall. 4 Q. Did you participate at any point in what was 5 later posted on the website? 6 A. Indirectly, yes. Not as a discussion of what 7 will go on the website, but on the discussion 8 about our general mail guide, yes. 9 Q. Okay. When you say "mail guide," what do you 10 mean? 11 (Exhibit 101 marked for identification.) 12 Q. BY MR. WING: You're waiting for me to hand you 13 a document. 14 A. Yeah. 15 Q. I have handed you what's been marked as 16 Exhibit 101. Is this the document you're 17 familiar with? 18 A. I'm not sure that this was ever put on our 19 website. 20 Q. Okay. 21 A. I don't believe so. 22 Q. Was this -- 23 A. This was what I was referring to by inmate mail 24 guide, but there is a newer version of this. 25 Q. Is this a document that you put in the dayroom</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. Was something new regarding the inmate mail 2 placed in the dayrooms shortly before we came 3 for our inspection? 4 A. I don't know how, as far as relation to when you 5 came, I can't recall when it was. 6 Q. Well, forget about the time -- 7 A. I believe it was before and not after. 8 Q. Okay. Then shortly before, right, like the same 9 day or the day before that? 10 A. I don't recall it being the same day or -- I 11 don't recall exactly when. 12 Q. Shortly before we came -- 13 MR. ROBERSON: Object. Asked and answered. 14 THE WITNESS: It was before. I don't know 15 if it was a week before, two weeks before. I 16 don't remember. 17 Q. BY MR. WING: And what was in the dayroom before 18 you instructed the deputy to put Exhibit 101 in 19 the dayrooms? 20 A. As far as inmate mail? 21 Q. As far as inmate mail. 22 A. There was an old memo. 23 (Exhibit 102 marked for identification.) 24 Q. BY MR. WING: I hand you Exhibit 102. Is that 25 the memo that was in the dayroom before</p>

20 (Pages 74 to 77)

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Moyer, Andrew

July 6, 2012

<p style="text-align: right;">Page 78</p> <p>1 Exhibit 101 was in the dayroom?</p> <p>2 A. Yes.</p> <p>3 Q. And did this memo correctly identify the mail</p> <p>4 policy of the sheriff's department as of</p> <p>5 May 2012 when it was still in there?</p> <p>6 A. No.</p> <p>7 Q. What was wrong with this memo in, that did not</p> <p>8 accurately reflect the policy?</p> <p>9 A. Give me some time here.</p> <p>10 Q. Sure.</p> <p>11 A. I would say the part that says "magazines are</p> <p>12 not allowed inside the facility."</p> <p>13 Q. Okay. What is the purpose of having this memo</p> <p>14 in the dayrooms?</p> <p>15 A. I don't know.</p> <p>16 Q. Was it to tell the prisoners what the policies</p> <p>17 are, right, so they would know what's allowed</p> <p>18 and what's not; isn't that correct?</p> <p>19 A. Well, I would be assuming. So I'm going to say</p> <p>20 I don't know. I didn't put it in there or</p> <p>21 instruct anybody to put it in there.</p> <p>22 Q. There are other pieces of paper that's --</p> <p>23 A. I know why I instructed this piece to be put in</p> <p>24 there and I can talk to that.</p> <p>25 Q. Okay. That's Exhibit 101?</p>	<p style="text-align: right;">Page 80</p> <p>1 A. No.</p> <p>2 Q. Why not?</p> <p>3 A. I don't know.</p> <p>4 Q. Do you think that placing that in the dayroom</p> <p>5 was an effective way to communicate the</p> <p>6 sheriff's new policy?</p> <p>7 A. Yes.</p> <p>8 Q. Why?</p> <p>9 A. Well, it was just one way of communicating with</p> <p>10 inmates.</p> <p>11 Q. Well, you hesitated quite a long time after I</p> <p>12 asked my question; right?</p> <p>13 A. Yes.</p> <p>14 Q. Why, if you thought it was effective, why isn't</p> <p>15 your answer "of course"?</p> <p>16 A. Because I was trying to think of, if there was</p> <p>17 any way why it would be ineffective. I can't</p> <p>18 think of one.</p> <p>19 Q. So if there are 15 or 20 other pieces of paper</p> <p>20 and it's just one in a pile, might that be one</p> <p>21 reason that it's not effective, somebody would</p> <p>22 have to go find it?</p> <p>23 A. It might be. I don't know.</p> <p>24 Q. If you came home from work one day and your</p> <p>25 spouse had a stack of paper on the table, would</p>
<p style="text-align: right;">Page 79</p> <p>1 A. Yes.</p> <p>2 Q. Okay. I'll ask you about that in a minute.</p> <p>3 A. Okay.</p> <p>4 Q. There are other pieces of paper that are</p> <p>5 laminated that sit in the dayroom; right?</p> <p>6 A. I don't, I know there are, but I don't know what</p> <p>7 they are.</p> <p>8 Q. Or why they're there?</p> <p>9 A. No.</p> <p>10 Q. Do you have any idea what they are?</p> <p>11 A. No.</p> <p>12 Q. Okay. Why did you instruct someone in your</p> <p>13 staff to put Exhibit 101 in the dayroom?</p> <p>14 A. So that inmates would know about our new inmate</p> <p>15 mail policy.</p> <p>16 Q. And you thought that that was a place that they</p> <p>17 would find out about it?</p> <p>18 A. Yes.</p> <p>19 Q. And did you have any idea how many different</p> <p>20 pieces of paper that are laminated sit in that</p> <p>21 pile?</p> <p>22 A. No, I did not.</p> <p>23 Q. Okay. Did you make any effort to try to figure</p> <p>24 out how likely it was the prisoners would</p> <p>25 discover this new inmate mail guide?</p>	<p style="text-align: right;">Page 81</p> <p>1 that be an effective way to communicate</p> <p>2 something important to you that you had to go</p> <p>3 and find out that there's a stack of paper and</p> <p>4 something in there might be of use to you?</p> <p>5 A. It would be one way.</p> <p>6 Q. Would it be an effective way?</p> <p>7 A. Yes.</p> <p>8 Q. Why?</p> <p>9 A. Because I would look through it.</p> <p>10 Q. Just as a matter of course, even though that</p> <p>11 stack had been there every day, you'd wonder if</p> <p>12 there's something new in there?</p> <p>13 A. Well, if, in this instance if someone told me</p> <p>14 that there was something new in there.</p> <p>15 Q. Tell me about that. Did that happen?</p> <p>16 A. That would, that was instructed to happen.</p> <p>17 Q. What did you say to somebody on your staff to</p> <p>18 communicate to the prisoners about Exhibit 101?</p> <p>19 A. I believe it was something similar to what you</p> <p>20 just said. I instructed the sergeants to make</p> <p>21 sure that it gets communicated that our mail</p> <p>22 policy has changed.</p> <p>23 Q. Did you tell them in what form to make that</p> <p>24 communication?</p> <p>25 A. No.</p>

21 (Pages 78 to 81)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

<p style="text-align: right;">Page 82</p> <p>1 Q. So how do you know they said anything to the</p> <p>2 prisoners?</p> <p>3 A. I don't.</p> <p>4 Q. Did you tell them, your deputies --</p> <p>5 A. I should say that it was communicated that they</p> <p>6 did make that announcement.</p> <p>7 Q. Who communicated that to you?</p> <p>8 A. I don't recall. One of the sergeants.</p> <p>9 Q. And when did the sergeant tell you that?</p> <p>10 A. I don't recall when I made that instruction.</p> <p>11 Q. Okay.</p> <p>12 A. And I don't recall when I asked if they made it</p> <p>13 or if they just told me.</p> <p>14 (Exhibit 103 marked for identification.)</p> <p>15 Q. BY MR. WING: I hand you Exhibit 106. I'm</p> <p>16 sorry. Let's change that to be 103. The</p> <p>17 hazards of letting the lawyers touch the papers.</p> <p>18 I don't expect you to be familiar with this</p> <p>19 document, but you'll see that it's an order</p> <p>20 approving the parameters of the Rule 30(b)(6)</p> <p>21 depositions and the Rule 34 inspection of the</p> <p>22 mail processing and jail premises. Do you see</p> <p>23 that?</p> <p>24 A. No.</p> <p>25 Q. That's what the heading said?</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Okay.</p> <p>2 A. So three plus.</p> <p>3 Q. Three-plus months. Okay. Why did it take you</p> <p>4 three-plus months to notify the prisoners they</p> <p>5 were allowed to have magazines?</p> <p>6 A. I'm not saying it did take three-plus months to</p> <p>7 notify the prisoners.</p> <p>8 Q. When did you notify the prisoners that they</p> <p>9 could have magazines?</p> <p>10 A. I don't recall, but I know it was prior to that</p> <p>11 May 8th.</p> <p>12 Q. When did it happen?</p> <p>13 A. I don't recall.</p> <p>14 Q. And in what form did you communicate it to the</p> <p>15 prisoners?</p> <p>16 A. I instructed our staff to communicate it with</p> <p>17 the inmates as well as insert this inmate mail</p> <p>18 guide into the pods.</p> <p>19 Q. And that instruction took place at the same</p> <p>20 time?</p> <p>21 A. I don't recall if it did or not.</p> <p>22 Q. You were aware that the inmate manual that was</p> <p>23 being given to prisoners as of the date that the</p> <p>24 inspection took place said no magazines are</p> <p>25 allowed; right?</p>
<p style="text-align: right;">Page 83</p> <p>1 A. Oh, right here?</p> <p>2 Q. Yes.</p> <p>3 A. Okay.</p> <p>4 Q. Do you see that?</p> <p>5 A. Uh-huh.</p> <p>6 Q. Please say yes or no for the court reporter.</p> <p>7 A. Yes. Sorry.</p> <p>8 Q. On this page it says that the inspection of the</p> <p>9 mail processing in the jail will take place on</p> <p>10 May 8th, 2012, at 11:00 p.m. Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So vis-à-vis the inspection which took</p> <p>13 place on May 8th pursuant to this court order --</p> <p>14 A. You're talking about the inspection when you</p> <p>15 guys came out to the jail?</p> <p>16 Q. That's correct.</p> <p>17 A. Okay.</p> <p>18 Q. This should orient you in time.</p> <p>19 A. Okay.</p> <p>20 Q. How many months had elapsed since the January</p> <p>21 lawsuit that was filed?</p> <p>22 A. Three.</p> <p>23 Q. So February, March, April and some portion of</p> <p>24 January and some portion of May; right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 85</p> <p>1 A. I'm not, I do not recall that.</p> <p>2 Q. Because you've never read it other than the</p> <p>3 select portions that were brought to your</p> <p>4 attention by inmates; right?</p> <p>5 A. Correct.</p> <p>6 Q. So do you think that would be confusing to a</p> <p>7 prisoner who comes in the jail and is given an</p> <p>8 inmate manual and then is told that there's a</p> <p>9 conflicting policy that's sitting in a pile of</p> <p>10 paper?</p> <p>11 MR. ROBERSON: Object to form.</p> <p>12 You can answer.</p> <p>13 Q. BY MR. WING: Do you think that would be</p> <p>14 confusing?</p> <p>15 A. It could be.</p> <p>16 Q. You were aware, as the jail commander, that new</p> <p>17 inmates are given an inmate manual when they</p> <p>18 come to the jail; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. And what's the purpose of that inmate manual?</p> <p>21 A. To explain the procedures of inmate life at our</p> <p>22 jail.</p> <p>23 Q. Tell them what's expected of them; right?</p> <p>24 A. Yes.</p> <p>25 Q. And also to tell them what, how things work so</p>

22 (Pages 82 to 85)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 94	Page 96
<p>1 A. Well, I guess my understanding of your question 2 was, was there anything noted in his evaluation 3 in regards to inmate mail? And there was not. 4 Q. Okay. Let me make clear what I'm trying to do, 5 which is one of his functions was to oversee the 6 processing of the mail, is that right, or was it 7 not? 8 A. At times I'm sure it was, depending upon which 9 shift. 10 Q. Okay. And you didn't only evaluate somebody for 11 the absence of known errors; right? You were 12 trying to decide whether somebody had done a 13 good job or a job that needed correction; is 14 that true? 15 A. Yes. 16 Q. So, in essence, you did not evaluate him on the 17 mail process because you had no information 18 about whether he was doing a good job overseeing 19 the mail process; is that true? 20 A. Yeah. I had no information whether he was doing 21 a good or bad job. 22 Q. Have you evaluated other sergeants during your 23 tenure? 24 A. I assisted in the evaluations of the enforcement 25 sergeants.</p>	<p>1 A. Yes. 2 Q. And what do you intend to do about that? 3 A. We've conducted training and changed our 4 procedures and policies. 5 Q. Okay. But what about those staff members who 6 didn't follow policy, is there no consequences 7 to them? 8 A. No. 9 Q. Then it's correct there are no consequences? 10 A. There are no consequences for them. 11 Q. If you would, please describe the steps that you 12 have been involved in taking to correct those 13 violations that you believe existed when you 14 were notified of PLN's lawsuit. So since you 15 got notice of the lawsuit in January, what steps 16 have you been involved in taking to correct the 17 violations? And if I may, I'm sorry to, if you 18 could try to go chronologically, that would be 19 helpful. 20 A. Okay. Steps that I've taken since the PLN 21 lawsuit to correct the violations. 22 Q. Yes. You recognize that there were violations; 23 right? 24 A. Yes. I've been involved in some of the policy 25 changes, not writing final versions of policy,</p>
Page 95	Page 97
<p>1 Q. And who did the primary writing of the 2 evaluation? 3 A. Sheriff Dickerson. 4 Q. Okay. So you've essentially not done, had the 5 primary responsibility for writing the 6 evaluation of anybody else except sheriff 7 Cutright once; is that true? 8 A. That's correct. And as far as actually doing 9 one, being in charge of and responsibilities of, 10 yes, just didn't get to it until now they are no 11 longer are employed. 12 Q. Okay. Have you -- You have had the 13 responsibility though of reviewing evaluations 14 written of other staff and signing off on them; 15 is that right? 16 A. That is correct. 17 Q. Have you ever seen any comment in any 18 performance evaluation since you have been in 19 the sheriff's office about handling inmate 20 mail -- 21 A. Not that I can recall. 22 Q. -- following policies? 23 And do you now have knowledge that you 24 believe your staff did not follow the sheriff's 25 mail policies?</p>	<p>1 that's the sheriff. But I've been involved in 2 that. I did write the draft prohibited mail 3 notice. 4 Q. Where did you get -- You borrowed a lot of 5 that -- 6 A. Yeah. I wrote that off of a Washington County 7 Sheriff's Office version. 8 Q. When did you do that? 9 A. I don't recall. Sometime after the PLN lawsuit. 10 It was part of our first new policy update in 11 late January, early February. So it would be 12 prior to that. It's an attachment to that 13 policy. 14 Q. Between the filing of PLN's lawsuit and the 15 January 26th new policy? 16 A. If that's the date, yes. 17 Q. Okay. Thank you. Okay. What else? 18 A. I assisted and attended the training, I believe, 19 in early February of the new policy. I have 20 directed staff to inform inmates of change of 21 policy. 22 Q. And that was either second half of April or 23 early May? 24 A. That's been ongoing. 25 Q. Starting?</p>

25 (Pages 94 to 97)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

<p style="text-align: right;">Page 98</p> <p>1 A. Starting sometime after the PLN lawsuit. I 2 don't recall when. Sometime after, I should say 3 more sometime after the first policy revision. 4 So sometime after that January 26th date that 5 you stated. 6 Q. Okay. Is it your testimony that you think in 7 February you might have instructed staff to go 8 into the dayrooms and tell prisoners that there 9 was a new mail policy? 10 A. I couldn't say if it was February for sure. 11 Q. I'm not asking for sure. When is your best 12 estimate of when you asked staff to go into the 13 dayrooms and say there's a new policy? 14 MR. ROBERSON: Object, asked and answered. 15 You can answer. 16 THE WITNESS: I don't know. 17 Q. BY MR. WING: And could it be as recently that 18 it did not happen until May? 19 A. It could have. 20 Q. Okay. So you directed staff to inform inmates, 21 as we've discussed; right? 22 A. Yes. 23 Q. Okay. What else did you do? 24 A. I have reviewed that one prohibited, that appeal 25 by an inmate.</p>	<p style="text-align: right;">Page 100</p> <p>1 I don't see -- It must not be on here. I 2 believe it was either the week of, because I'm 3 looking at the correction calendar. It was 4 either before the week of that or after that. 5 So that would be either the week of April 9th or 6 the week of April 30th, which would go into 7 May 1, 2nd, 3rd, 4th. 8 Q. Okay. What do you remember coming up about your 9 mail policy? Did you give a presentation on it? 10 A. No. 11 Q. Did somebody ask you questions about it? 12 A. I believe several people asked questions about 13 it. 14 Q. Did you hand out a copy? 15 A. No. 16 Q. So what did you tell people about your new mail 17 policy? 18 A. That we've changed. I talked about -- Because 19 your original question was did we talk about 20 what we've done to correct those violations. I 21 talked about those violations. 22 Q. You talked about the violations at the command 23 council meeting. 24 A. Yes. 25 Q. What did you say about them?</p>
<p style="text-align: right;">Page 99</p> <p>1 Q. Regarding the magazine? 2 A. Regarding the magazine. I have had meetings 3 with attorneys. I've had meetings with the 4 sheriff. I've had meetings with sergeants. 5 I've had meetings with deputies. I've had 6 meetings with other jail commanders. 7 Q. Which other jail commanders? 8 A. Would be Sheriffs' Association jail command 9 council. So I don't know who all was there, but 10 several. 11 Q. And that was about this lawsuit? 12 A. No. It was a general meeting about lots of 13 different jail issues, but we did talk about our 14 mail policy. I won't necessarily say we talked 15 about the lawsuit, but we talked about our new 16 mail policy. 17 Q. So this was after January's new mail policy? 18 A. Yes. This was -- 19 Q. April? 20 A. Oh, boy. I don't know the exact date. 21 Q. What's an approximate date? 22 A. You want an exact date? I can probably get it 23 on my iPhone right now. 24 Q. Please. 25 A. I think I can go back that far on my calendar.</p>	<p style="text-align: right;">Page 101</p> <p>1 A. Just that we've taken steps to fix those issues 2 and changed our policy. 3 Q. Okay. I think what you've identified is that 4 you participated in making some policy changes, 5 although the sheriff is primarily in charge of 6 that; two, that you wrote a draft prohibited 7 mail notice; three, that you attended the 8 training on the new mail policy in early 9 February, 2012; four, that you directed staff to 10 inform inmates of a change in policy, you do not 11 remember when that occurred; five, you reviewed 12 the appeal of a prisoner who wanted the 13 magazine; and six, you attended meetings with 14 attorneys, sheriff, deputies, sergeants; and 15 seven, you attended this command council meeting 16 that you described. Anything else? 17 A. Yes. The direction of that mail guide to be 18 placed in the pods, also the direction of the 19 removal of the, your other exhibit. May I look 20 at these? 21 Q. Sure. That's Sergeant Cutright's May 23rd, 22 2010, memo? 23 A. Yes. Exhibit 102. 24 MR. ROBERSON: Did you say May or March of 25 2010?</p>

26 (Pages 98 to 101)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 102	Page 104
<p>1 MR. WING: I meant to say March.</p> <p>2 THE WITNESS: March.</p> <p>3 Q. BY MR. WING: And to put in Exhibit 101?</p> <p>4 A. Yes. And that was separate.</p> <p>5 Q. Okay. One, all right. Anything else?</p> <p>6 A. I have conducted a, another, not actually -- I</p> <p>7 shouldn't say I have conducted. I assisted and</p> <p>8 attended another training for new, new mail</p> <p>9 policy.</p> <p>10 Q. When was that?</p> <p>11 A. That was this week, Tuesday.</p> <p>12 Q. So that would be the July 3rd?</p> <p>13 A. Yes. That was a formal training prior to that.</p> <p>14 But we instituted a new, new policy June 18th, I</p> <p>15 want to say, don't quote me on the exact date,</p> <p>16 but I believe that to be true. And we've done</p> <p>17 informal trainings until this Tuesday where we</p> <p>18 did a formal training. We've also, I've also,</p> <p>19 there's a newer mail guide than what your</p> <p>20 exhibit is that has now been placed in the pods</p> <p>21 and I've instructed that one to be placed into</p> <p>22 the pods and this one to be removed. I've given</p> <p>23 further instruction again after the June 18th</p> <p>24 new policy to instruct inmates at booking that</p> <p>25 there's a new policy and to make an announcement</p>	<p>1 A. Yes.</p> <p>2 Q. Okay.</p> <p>3 A. Under the policy where it says jail supervisors,</p> <p>4 yes. They fit that.</p> <p>5 Q. And do you have any knowledge as to what</p> <p>6 determinations were actually made? Was any mail</p> <p>7 delivered?</p> <p>8 A. Yes. There was mail delivered because they told</p> <p>9 me.</p> <p>10 Q. Do you know what --</p> <p>11 A. I have not seen what mail was delivered, no.</p> <p>12 But they did tell me that they did deliver mail.</p> <p>13 Q. And do you have any knowledge of what change in</p> <p>14 the policy caused those pieces of mail to be</p> <p>15 delivered?</p> <p>16 A. I do not.</p> <p>17 Q. Okay. Anything else?</p> <p>18 A. I mentioned the new, the training on the new</p> <p>19 policy?</p> <p>20 Q. I think you did, on this past Tuesday.</p> <p>21 A. Yes. Okay.</p> <p>22 Q. So please describe that --</p> <p>23 A. There's been, although I did not, I wasn't</p> <p>24 involved in the change, there is a new, a second</p> <p>25 new inmate manual that's been distributed to</p>
Page 103	Page 105
<p>1 into each pod.</p> <p>2 Q. Anything else?</p> <p>3 A. Probably.</p> <p>4 Q. Well, now is the chance for me to find out what</p> <p>5 that is. Just think.</p> <p>6 A. I'm trying -- Let me think.</p> <p>7 MR. ROBERSON: To the best of your</p> <p>8 knowledge.</p> <p>9 THE WITNESS: Yeah. To the best of my</p> <p>10 knowledge and memory. Oh, I've instructed in</p> <p>11 which I received word that it has been</p> <p>12 completed, our two new lieutenants went back</p> <p>13 into all the, our current inmates' property for</p> <p>14 undelivered mail under our old policy. And if</p> <p>15 it fits our new policy, they delivered that</p> <p>16 mail.</p> <p>17 Q. BY MR. WING: Okay. When did that occur?</p> <p>18 A. That's occurred since our last, since the</p> <p>19 lieutenants became lieutenants. So since</p> <p>20 June 23rd. But it's been completed.</p> <p>21 Q. I'm sorry. Who did the actual determinations of</p> <p>22 whether it should be delivered or not?</p> <p>23 A. Lieutenant McDowall and Lieutenant Weaver.</p> <p>24 Q. And they are supervisors within the meaning of</p> <p>25 your policy; is that right?</p>	<p>1 every inmate that reflects our new policy from</p> <p>2 June 18th.</p> <p>3 Q. When was that occurred?</p> <p>4 A. When was that delivered to the inmates?</p> <p>5 Q. Yes.</p> <p>6 A. Sometime within the past two weeks. I believe</p> <p>7 actually it got finished this week. I don't</p> <p>8 know when it got started.</p> <p>9 Q. So probably didn't get distributed until this</p> <p>10 week; is that what you're saying?</p> <p>11 A. All I know is I was directed that it got</p> <p>12 finished, that every inmate now has the most</p> <p>13 current inmate manual this week, but I wasn't in</p> <p>14 charge of creating that new inmate manual. So</p> <p>15 I'm not sure when it was completed as far as to</p> <p>16 get distributed.</p> <p>17 Q. Okay. How much mail was found that needed to be</p> <p>18 delivered?</p> <p>19 A. I do not know.</p> <p>20 Q. Do you know how many inmates got mail because of</p> <p>21 this?</p> <p>22 A. I do not.</p> <p>23 Q. Do you know anything about whether any of those</p> <p>24 were magazines?</p> <p>25 A. I do not.</p>

27 (Pages 102 to 105)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 110	Page 112
<p>1 THE WITNESS: To my understanding of the</p> <p>2 prior -- I'm not sure. I'd have to relook at</p> <p>3 both of them.</p> <p>4 Q. BY MR. WING: Okay. If you could turn to</p> <p>5 page 13.</p> <p>6 A. On Exhibit 105?</p> <p>7 Q. On Exhibit 105. If you look at paragraph 4 at</p> <p>8 the bottom of the page.</p> <p>9 A. Uh-huh.</p> <p>10 Q. "Mail rules," do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. "Jail commander will ensure mail rules are a</p> <p>13 part of inmate orientation." Do you see that</p> <p>14 part of that sentence?</p> <p>15 A. Yes.</p> <p>16 Q. Has that always been true?</p> <p>17 A. I don't know.</p> <p>18 Q. Then it says, and the inmate manual -- Excuse</p> <p>19 me. "The jail commander will ensure mail rules</p> <p>20 are a part of inmate orientation in the inmate</p> <p>21 manual." Do you know if that's always been</p> <p>22 true?</p> <p>23 A. I don't know.</p> <p>24 Q. Then it says, "And we'll make copies of the</p> <p>25 inmate mail guide available to the public." Do</p>	<p>1 A. Well, they wouldn't have to do the website.</p> <p>2 They could call.</p> <p>3 Q. And what would they be told?</p> <p>4 A. I don't know.</p> <p>5 Q. Would you expect them to be told what the inmate</p> <p>6 manual said?</p> <p>7 A. I would expect them to be told what our policy</p> <p>8 says.</p> <p>9 Q. As you sit here today, do you have any</p> <p>10 information about what your staff who handled</p> <p>11 mail for the prisoners believed the mail policy</p> <p>12 was before January 2012?</p> <p>13 A. Can I reask that question so I know what you're</p> <p>14 asking?</p> <p>15 Q. Okay.</p> <p>16 A. So you're asking if prior to January 2012 what</p> <p>17 would my expectations be?</p> <p>18 Q. No. So before your, before PLN filed its</p> <p>19 lawsuit --</p> <p>20 A. Right.</p> <p>21 Q. -- if you went and said to Sergeant Cutright, do</p> <p>22 we allow magazines? What do you think he would</p> <p>23 have said?</p> <p>24 A. I don't know.</p> <p>25 MR. ROBERSON: Object, speculation.</p>
Page 111	Page 113
<p>1 you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Has that always been true?</p> <p>4 A. I don't know.</p> <p>5 Q. Do you know in what ways your jail makes the</p> <p>6 inmate mail guide available to the public?</p> <p>7 A. It's on our website currently. And if they</p> <p>8 would call and ask questions, we would answer</p> <p>9 questions based upon that.</p> <p>10 Q. Okay.</p> <p>11 A. And it's also available to the inmates if they</p> <p>12 were to get questions, whether it be phone or by</p> <p>13 mail from their family.</p> <p>14 Q. Did the jail expect -- Strike that.</p> <p>15 Did the sheriff's department expect the</p> <p>16 public to look to its website to find out what</p> <p>17 the inmate mail rules were before January 2012?</p> <p>18 A. I don't think we expected the public to do</p> <p>19 anything. I guess I don't understand what your</p> <p>20 question is.</p> <p>21 Q. Well, if the public wanted to find out what the</p> <p>22 mail rules were before January of 2012, where</p> <p>23 were they expected to get that information?</p> <p>24 A. I think from the same areas.</p> <p>25 Q. What do you mean "the same areas"?</p>	<p>1 Q. BY MR. WING: Have you ever asked him?</p> <p>2 A. Prior to January 2012?</p> <p>3 Q. Yes.</p> <p>4 A. I don't believe so.</p> <p>5 Q. Okay. And just to be clear, prior to PLN filing</p> <p>6 this lawsuit, if you went and spoke to Jim</p> <p>7 Carpenter at the last day on his job, last</p> <p>8 summer and said, do we allow magazines in the</p> <p>9 jail? What do you think he would have said?</p> <p>10 A. I don't know.</p> <p>11 Q. Okay. Have you ever investigated how it was</p> <p>12 that your staff understood the mail policy</p> <p>13 completely different than what you think the</p> <p>14 policy actually stated?</p> <p>15 A. I've inquired.</p> <p>16 Q. What did you find out?</p> <p>17 A. A bunch of people saying "I don't know."</p> <p>18 Q. Does that indicate a failure of leadership?</p> <p>19 A. I think that's fair.</p> <p>20 Q. Please describe the training that took place in</p> <p>21 June, excuse me, earlier this week to implement</p> <p>22 the new policy. What happened at that training?</p> <p>23 A. It was similar to the February training. We</p> <p>24 handed out a complete, the entire policy to</p> <p>25 every deputy. There was a PowerPoint which</p>

29 (Pages 110 to 113)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 114	Page 116
<p>1 basically was the new policy broken down into</p> <p>2 smaller sections per PowerPoint page, and then</p> <p>3 there was also discussion and there was also, in</p> <p>4 fact, we used a... Reaching out for a word.</p> <p>5 Q. Can you describe it?</p> <p>6 A. An example of a magazine.</p> <p>7 Q. What magazine?</p> <p>8 A. I don't know. It's like a car magazine or</p> <p>9 something. It was used as an example for our</p> <p>10 new definition of sexually explicit material.</p> <p>11 Q. How does the new definition of sexually explicit</p> <p>12 material differ from the old definition?</p> <p>13 A. I would like to look at the policy to answer</p> <p>14 that. I can give you a very general description</p> <p>15 because I was, I did, I was involved in some</p> <p>16 discussion on this.</p> <p>17 Q. Okay.</p> <p>18 A. And the old version was subjective. This newer</p> <p>19 version takes the subjectiveness out and makes</p> <p>20 it more black and white, harder for our deputies</p> <p>21 to make a mistake based upon their personal</p> <p>22 feelings.</p> <p>23 Q. Okay. So you have mentioned that the entire,</p> <p>24 the new policy was handed out, a PowerPoint,</p> <p>25 including the text of the policy, and broken</p>	<p>1 the policy. Someone might ask a question and we</p> <p>2 would discuss it.</p> <p>3 Q. Can you remember any of the questions that were</p> <p>4 asked?</p> <p>5 A. Let me think for a second. I do remember one.</p> <p>6 It's on the tip of...</p> <p>7 Q. What's the nature of the question?</p> <p>8 A. I can think of it. I just can't... it's right</p> <p>9 there.</p> <p>10 MR. ROBERSON: While you are thinking about</p> <p>11 it, Mr. Wing, I have the PowerPoint</p> <p>12 presentation. I just haven't had time to number</p> <p>13 it and send it to you. If you wanted to make it</p> <p>14 an exhibit, I can go grab it.</p> <p>15 MR. WING: Would you? And the undersheriff</p> <p>16 can think. Take a break.</p> <p>17 (Break taken from 2:21 to 2:25.)</p> <p>18 (Exhibit 106 marked for identification.)</p> <p>19 Q. BY MR. WING: So, Undersheriff Moyer, did you</p> <p>20 think of the question that was asked during the</p> <p>21 training?</p> <p>22 A. Yeah. I don't remember exactly, but it had to</p> <p>23 do with mail, incoming mail without a return</p> <p>24 sender.</p> <p>25 Q. Without an address of a return sender?</p>
Page 115	Page 117
<p>1 down into sections was shown. There was some</p> <p>2 discussion?</p> <p>3 A. Uh-huh.</p> <p>4 Q. Is that right? Yes?</p> <p>5 A. Yes.</p> <p>6 Q. And there was an example of a magazine, a car</p> <p>7 magazine that was used to show how the new</p> <p>8 definition of sexually explicit would be</p> <p>9 utilized regarding that magazine; is that right?</p> <p>10 A. Yes.</p> <p>11 Q. Anything else happen during this meeting?</p> <p>12 A. At the meeting, yes. Not at the training. We</p> <p>13 had a --</p> <p>14 Q. I'm sorry.</p> <p>15 A. -- Overall staff meeting and the training was</p> <p>16 about an hour to two hours in length of that</p> <p>17 meeting.</p> <p>18 Q. Okay. Yeah. I just want to focus on the</p> <p>19 training.</p> <p>20 A. Yes. Just, no. There was just discussion</p> <p>21 included in that discussion were some questions</p> <p>22 and answers.</p> <p>23 Q. What questions and answers?</p> <p>24 A. I don't, I couldn't tell you exactly. There was</p> <p>25 just, you know, we would read a certain part of</p>	<p>1 A. Or even a name of return sender, yeah.</p> <p>2 Q. And what was the answer?</p> <p>3 A. It was, we looked at it, the, I believe the</p> <p>4 deputy asked that question prior to that being,</p> <p>5 prior to that part of the policy. So we --</p> <p>6 Q. You covered it in the policy?</p> <p>7 A. Covered it in the policy.</p> <p>8 Q. Do you remember any other questions?</p> <p>9 A. No. I believe there were a couple other</p> <p>10 questions, but I believe that's the one I</p> <p>11 stepped in and addressed. McDowall and Weaver</p> <p>12 were the ones kind of conducting the training</p> <p>13 and I was there.</p> <p>14 Q. Do you remember any other questions?</p> <p>15 A. I don't remember. I remember that there were</p> <p>16 other questions. I don't remember what they</p> <p>17 were.</p> <p>18 Q. Was there like a fact sheet that was handed out?</p> <p>19 A. No. We just handed out the entire policy.</p> <p>20 Q. Okay. Were any of the members of your staff not</p> <p>21 present for that training?</p> <p>22 A. Yes. One member was on vacation.</p> <p>23 Q. Who was that?</p> <p>24 A. That's Deputy Moore.</p> <p>25 Q. And how will Deputy Moore become apprised of the</p>

30 (Pages 114 to 117)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 118	Page 120
<p>1 training?</p> <p>2 A. He will be lucky enough to get one-on-one</p> <p>3 training.</p> <p>4 Q. From who?</p> <p>5 A. I don't know yet. When he gets back we'll</p> <p>6 figure that out, whoever, I mean, it will either</p> <p>7 be myself, Lieutenant Weaver or Lieutenant</p> <p>8 McDowall.</p> <p>9 Q. Was the sheriff at the July 3rd training?</p> <p>10 A. No. But he's the one who created the</p> <p>11 PowerPoint. And he might have been there at the</p> <p>12 very beginning of it. He was there at some</p> <p>13 point in the staff meeting.</p> <p>14 Q. Okay. On a day-to-day level, who has the</p> <p>15 responsibility of ensuring that the new mail</p> <p>16 policy is implemented?</p> <p>17 A. Well, the deputies have the day-to-day</p> <p>18 responsibility.</p> <p>19 Q. Okay. And was anybody looking over their</p> <p>20 shoulder?</p> <p>21 A. Every moment of them searching mail? No.</p> <p>22 Q. No. Does anybody --</p> <p>23 A. I mean reviewing mail, no.</p> <p>24 Q. And is there any effort in the works to ensure</p> <p>25 that they are complying with the policy?</p>	<p>1 form that they used to use. And I don't recall</p> <p>2 what that looked like, but I do remember seeing</p> <p>3 it. That's the only time I recall seeing it.</p> <p>4 Q. Have you read the lawsuit that's been filed in</p> <p>5 this case?</p> <p>6 A. Verbatim, word for word?</p> <p>7 Q. What kind of reading is there? I mean, I'm</p> <p>8 serious, what do you mean by "word for word?"</p> <p>9 What does it mean to read something?</p> <p>10 A. Well, there's lots of ways of reading. I don't</p> <p>11 know if I've read 100 percent of it.</p> <p>12 Q. Have you actually read a portion of it?</p> <p>13 A. Yes.</p> <p>14 Q. And if you think "read" is not quite the right</p> <p>15 word, what word would you use?</p> <p>16 A. Yes. I read most portions of it, if not all.</p> <p>17 Q. When did you read it?</p> <p>18 A. I don't recall. It was pretty early on. When</p> <p>19 we were first given notice, I'm trying to</p> <p>20 remember how that actually happened. I don't</p> <p>21 remember if I was served. I accepted service of</p> <p>22 the sheriff's office service, I believe, because</p> <p>23 the sheriff was out of town, I believe. I</p> <p>24 forwarded that to our county counsel. But I'm</p> <p>25 not sure if that's -- County counsel might have</p>
Page 119	Page 121
<p>1 A. Yes.</p> <p>2 Q. What is that effort?</p> <p>3 A. In our new June 18th policy and without looking</p> <p>4 at the policy I can't quote it verbatim, but</p> <p>5 there is a provision where all mail that is</p> <p>6 rejected at the deputy level, they will fill out</p> <p>7 the prohibited mail notice with that piece of</p> <p>8 mail and put it in a box, an inbox that's in our</p> <p>9 booking office that is labeled mail to be</p> <p>10 reviewed. And everybody's mail that is denied</p> <p>11 will be reviewed by the, one of the two</p> <p>12 lieutenants or myself before final rejection.</p> <p>13 In fact, on the new prohibited mail notice,</p> <p>14 which I originally wrote, we have added a line</p> <p>15 so now it's not just the deputy signing it, then</p> <p>16 it goes and it's, required a supervisor to sign</p> <p>17 it so I know which supervisor reviewed it.</p> <p>18 Q. Have you ever seen any mail rejection notices</p> <p>19 before the ones you created?</p> <p>20 A. Yes.</p> <p>21 Q. Where did you see them?</p> <p>22 A. I was in the booking office. This is at the</p> <p>23 same time where I was meeting with Sergeant</p> <p>24 Cutright and Sergeant Rigdon and reviewing one</p> <p>25 of the draft policies. And they showed me the</p>	<p>1 told me about it first. I can't remember.</p> <p>2 Q. Okay. And in the lawsuit did you see any</p> <p>3 allegations about whether the jail had censored</p> <p>4 and rejected PLN's mail?</p> <p>5 A. Allegations, yes.</p> <p>6 Q. What, if any, attempt did you make to determine</p> <p>7 whether those allegations were accurate or not?</p> <p>8 A. I don't recall. I just recall gathering all the</p> <p>9 information I can and forwarding it to county</p> <p>10 counsel. I gathered policies. I asked my</p> <p>11 sergeants to provide me with any mail grievances</p> <p>12 and, in which I forwarded to county counsel. I</p> <p>13 also, having firsthand knowledge that Prison</p> <p>14 Legal News was, had been delivered to inmates, I</p> <p>15 instructed my staff to find out which inmates</p> <p>16 have Prison Legal News because I knew that they</p> <p>17 had them. That's one thing they did.</p> <p>18 Q. How did they do that? Did they find out?</p> <p>19 A. They did.</p> <p>20 Q. How did they find that out?</p> <p>21 A. They went and interviewed inmates, asked them,</p> <p>22 do you have Prison Legal News or do you not, or</p> <p>23 have you ever gotten it?</p> <p>24 Q. How did you get back the information from your</p> <p>25 deputies or sergeants who interviewed the</p>

31 (Pages 118 to 121)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 122	Page 124
<p>1 inmates?</p> <p>2 A. Someone provided a report to me, which I</p> <p>3 forwarded to our county counsel.</p> <p>4 Q. Written report?</p> <p>5 A. Yes. It was either a written report or maybe it</p> <p>6 was just an e-mail. I can't remember.</p> <p>7 Q. It was in writing?</p> <p>8 A. Yeah. It was in...</p> <p>9 Q. Okay. Were you aware, subsequently, that Prison</p> <p>10 Legal News filed a motion for preliminary</p> <p>11 injunction?</p> <p>12 A. I believe I've heard that. Yes.</p> <p>13 Q. Did you review any of the materials that were</p> <p>14 filed?</p> <p>15 A. I don't believe so.</p> <p>16 Q. So you don't know, for example, whether there</p> <p>17 was censored material that was produced to the</p> <p>18 jail that showed that this had been censored by</p> <p>19 the jail?</p> <p>20 A. No, I don't.</p> <p>21 Q. Okay. Does it matter to you whether it was</p> <p>22 censored?</p> <p>23 A. What do you mean by "censored"? You mean</p> <p>24 rejected?</p> <p>25 Q. That would be, that's one form of censorship,</p>	<p>1 Q. Well, if it was important to you that your mail</p> <p>2 got delivered and the person who you wanted to</p> <p>3 be able to read it never got to read it, what</p> <p>4 would you want to have happen?</p> <p>5 A. I don't know. I've never thought about that</p> <p>6 before. I don't, I've had my mail lost in the</p> <p>7 mail before and I don't know. I've never</p> <p>8 thought I should get anything for it.</p> <p>9 Q. Do you think people threw out your mail and</p> <p>10 that's why it didn't get delivered?</p> <p>11 A. I have no idea.</p> <p>12 Q. Would that make a difference to you, somebody</p> <p>13 intentionally kept your mail from going through?</p> <p>14 A. Probably.</p> <p>15 Q. So if you didn't get your refinance because you</p> <p>16 sent something off, would that just seem like,</p> <p>17 oh, just don't do it again?</p> <p>18 A. I guess it would depend.</p> <p>19 Q. Depends on how important your mail is, isn't it?</p> <p>20 A. Uh-huh.</p> <p>21 Q. Is that a yes?</p> <p>22 A. Yes. Sorry.</p> <p>23 Q. Thank you. And do you think mail is important</p> <p>24 to prisoners?</p> <p>25 A. I'm sure it is.</p>
Page 123	Page 125
<p>1 yes. So let's say that it was rejected. Does</p> <p>2 it matter to you whether Prison Legal News was</p> <p>3 rejected?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Why does it matter to you?</p> <p>6 A. Because that would be a constitutional</p> <p>7 violation.</p> <p>8 Q. What do you think could and should be done when</p> <p>9 a constitutional violation occurs like rejecting</p> <p>10 somebody's mail? How do you remedy a violation</p> <p>11 like that?</p> <p>12 A. Are you asking for my personal opinion?</p> <p>13 Q. I'm asking for your opinion.</p> <p>14 A. My opinion is, in my opinion, in a perfect</p> <p>15 world, two people get together and meet and</p> <p>16 discuss what, what violation occurred and seek a</p> <p>17 remedy there. And I think the most important</p> <p>18 part in my opinion would be the remedy to fix</p> <p>19 that and so it wouldn't happen again.</p> <p>20 Q. And what kind of remedy do you think is</p> <p>21 appropriate for rejecting somebody's mail when</p> <p>22 they should have gotten it or rejecting</p> <p>23 somebody's mail when their mail should have been</p> <p>24 delivered?</p> <p>25 A. I don't know.</p>	<p>1 Q. Probably more important than to your average</p> <p>2 person?</p> <p>3 A. I don't think I would agree with that.</p> <p>4 Q. Why not?</p> <p>5 A. I think probably I would, in my personal</p> <p>6 opinion, I would think it would be less</p> <p>7 important.</p> <p>8 Q. Why is that?</p> <p>9 A. Because I think written correspondence might be</p> <p>10 less important than, say, paying my mortgage as</p> <p>11 far as causing me hardship. And inmates don't</p> <p>12 do that kind of business from our jail.</p> <p>13 Q. How does their mortgage get paid?</p> <p>14 A. I don't know.</p> <p>15 Q. Do you have any perception about the</p> <p>16 significance of mail in the lives of prisoners</p> <p>17 to them?</p> <p>18 A. I can't say that I do.</p> <p>19 Q. Okay. Can you think of any other time when the</p> <p>20 sheriff's office has responded to a grievance or</p> <p>21 complaint by changing its policies?</p> <p>22 A. Grievance or complaint. I'm going to take a</p> <p>23 moment to think about this one.</p> <p>24 Q. Please do. Take whatever time you need.</p> <p>25 A. I can't think of one off the top of my head.</p>

32 (Pages 122 to 125)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 166	Page 168
<p>1 Q. And do you know whether it was actually</p> <p>2 confirmed that it was methamphetamine?</p> <p>3 A. I do not.</p> <p>4 Q. Okay. Was that alleged incident part of the</p> <p>5 discussion about adopting the postcard-only</p> <p>6 policy?</p> <p>7 A. I don't recall that. No.</p> <p>8 Q. Do your deputies use gloves when they work the</p> <p>9 mail?</p> <p>10 A. I've never observed them sorting the mail. I</p> <p>11 can't answer that.</p> <p>12 Q. If they were truly worried about hazardous</p> <p>13 substances, wouldn't you expect them to use</p> <p>14 gloves?</p> <p>15 A. I would, and I would use -- I can answer what I</p> <p>16 would use. And I would sort the mail with</p> <p>17 gloves on. That's just a speculation,</p> <p>18 assumption what they would do.</p> <p>19 Q. Okay. Do you think that whether somebody uses</p> <p>20 gloves or not might reflect how serious a threat</p> <p>21 they thought that was?</p> <p>22 A. Yes and no. I know, I know police officers and</p> <p>23 deputies who put gloves on for every little</p> <p>24 thing. So...</p> <p>25 Q. Has your jail considered accepting e-mails that</p>	<p>1 A. I think it would be a great idea if we could get</p> <p>2 the technology in there. I mean, I can't, the</p> <p>3 problem exists where I can't put a, you know,</p> <p>4 just a regular computer in the pod hooked up to</p> <p>5 the internet.</p> <p>6 Q. That's the hurdle, you think?</p> <p>7 A. That's, yeah. That's why I can't do it, because</p> <p>8 even we've had protected computers in the</p> <p>9 library be damaged and stuff. So that's the</p> <p>10 hard part. So the technology that I'm hearing</p> <p>11 about, and I haven't got it all firsthand</p> <p>12 knowledge, but the technology that I'm hearing</p> <p>13 about is that there's companies that are looking</p> <p>14 into doing a kiosk type system in pods to where</p> <p>15 you can do that.</p> <p>16 Q. What about having people send e-mails, not</p> <p>17 directly to the prisoners, but they send them to</p> <p>18 the sheriff's department, you print them off and</p> <p>19 you give them to the inmate?</p> <p>20 A. I haven't heard of that idea before, but that's</p> <p>21 another possibility.</p> <p>22 Q. And do you think there is a greater or lesser or</p> <p>23 the same risk to security and safety at the jail</p> <p>24 comparing incoming mail and outgoing mail?</p> <p>25 A. Say that again.</p>
Page 167	Page 169
<p>1 are sent to the jail than to be given to</p> <p>2 prisoners as a way of encouraging people outside</p> <p>3 the jail to send mail that way?</p> <p>4 A. I don't know if our, if -- I have considered it.</p> <p>5 I don't know --</p> <p>6 Q. You have?</p> <p>7 A. I have. I don't know of, I guess I don't want</p> <p>8 to say that our sheriff's office has considered</p> <p>9 it because it's kind of a new thing that's been</p> <p>10 discussed among jails that I've had that</p> <p>11 conversation and, with, you know, with newer</p> <p>12 technology I think that that possibility exists</p> <p>13 in the future, possibly the near future.</p> <p>14 Q. Do you know of any jails that are, have</p> <p>15 implemented that?</p> <p>16 A. I don't. I know there is some, I can't remember</p> <p>17 which ones, but I know someone was, was looking</p> <p>18 at it closer than me where they've actually</p> <p>19 talked to vendors about it.</p> <p>20 Q. Okay.</p> <p>21 A. But I can't remember exactly what jail that was.</p> <p>22 I had this discussion at one of those jail</p> <p>23 command meetings, in fact, our most recent jail</p> <p>24 commanders' meeting.</p> <p>25 Q. What do you think about that idea?</p>	<p>1 Q. Okay. So you have got mail coming into the jail</p> <p>2 for prisoners and you have got mail that the</p> <p>3 prisoners are sending out.</p> <p>4 A. Yes.</p> <p>5 Q. Do they pose the same risk, security and safety,</p> <p>6 to the jail?</p> <p>7 A. I don't know if I would say the same risk to the</p> <p>8 jail, but the same risk to the public. So</p> <p>9 there's a penological interest in both.</p> <p>10 Q. What's the risk to the public?</p> <p>11 A. An inmate sending something out in an envelope.</p> <p>12 Q. Like what?</p> <p>13 A. Like powder.</p> <p>14 Q. That they would get where?</p> <p>15 A. They would grind up from anything that could be</p> <p>16 made powder, toothpaste is one thing I've seen</p> <p>17 firsthand knowledge of, pills like an aspirin.</p> <p>18 Q. What kind of risk does ground-up toothpaste pose</p> <p>19 to the public?</p> <p>20 A. It can shut an entire courthouse down, which</p> <p>21 it's done here in Portland.</p> <p>22 Q. It's not actually a risk. It's a fear; right?</p> <p>23 A. Well, that's a risk, yes. Shutting an entire</p> <p>24 courthouse down, to me, is real.</p> <p>25 Q. So --</p>

43 (Pages 166 to 169)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 170	Page 172
<p>1 A. That's a pretty big public alarm risk.</p> <p>2 Q. Fair enough. Is it your testimony that your</p> <p>3 deputies would not catch an amount of powder put</p> <p>4 in an envelope that would shut down a</p> <p>5 courthouse?</p> <p>6 A. That's possible, because it's been done before</p> <p>7 right here in Portland. In fact, that inmate is</p> <p>8 in my jail right now.</p> <p>9 Q. And do you think that was a failure of somebody</p> <p>10 to do their job, to look at the mail?</p> <p>11 A. I haven't reviewed that. So I'm unable to</p> <p>12 speculate on that.</p> <p>13 Q. And so you think it's worth limiting all</p> <p>14 prisoners' communications with their families,</p> <p>15 friends, businesses, et cetera, because somebody</p> <p>16 might grind up toothpaste --</p> <p>17 A. Absolutely not. Absolutely not. That's not</p> <p>18 what I said at all.</p> <p>19 Q. That's the justification for the postcard-only</p> <p>20 policy.</p> <p>21 A. But not limiting all communication, like what</p> <p>22 you just stated. That's not limiting all</p> <p>23 communications. Going from envelopes to</p> <p>24 postcard is not limiting all communications.</p> <p>25 Q. To postcards.</p>	<p>1 A. Uh-huh.</p> <p>2 Q. Is that a yes?</p> <p>3 A. Yes. Sorry.</p> <p>4 Q. And you're saying that's worth, to avoid that</p> <p>5 risk, it's worth limiting all communications</p> <p>6 from prisoners out to all those persons and</p> <p>7 entities just to postcards as opposed to</p> <p>8 letters?</p> <p>9 A. As opposed to letters?</p> <p>10 Q. Yes.</p> <p>11 A. Yes.</p> <p>12 Q. Okay.</p> <p>13 (Exhibit 111 marked for identification.)</p> <p>14 Q. BY MR. WING: Handing you Exhibit 111 --</p> <p>15 A. And that's my personal opinion.</p> <p>16 Q. Is that different from your opinion as the</p> <p>17 undersheriff?</p> <p>18 A. No. I'm just saying it's not a legal opinion.</p> <p>19 Q. I understand. I'm asking for your opinion as</p> <p>20 the undersheriff. Have you seen Exhibit 111</p> <p>21 before?</p> <p>22 A. Yes.</p> <p>23 Q. Did you participate in that decision?</p> <p>24 A. No.</p> <p>25 Q. Were you surprised to see this?</p>
Page 171	Page 173
<p>1 A. To postcards.</p> <p>2 Q. That's what I'm saying.</p> <p>3 A. But you said all communication.</p> <p>4 Q. So I'm asking you, is it your testimony that</p> <p>5 limiting all communications to family, friends,</p> <p>6 business associates, businesses, publishers,</p> <p>7 from prisoners to those people and entities,</p> <p>8 limiting those to postcards because a, one</p> <p>9 prisoner might grind up a aspirin or toothpaste,</p> <p>10 that's, in weighing those against each other,</p> <p>11 you would choose limiting it to a postcard only?</p> <p>12 A. For mail?</p> <p>13 Q. Yes.</p> <p>14 A. For mail only? Because, again, I'm not</p> <p>15 submitting that's all communication because</p> <p>16 there's other forms of communication that's</p> <p>17 being existed.</p> <p>18 Q. Well, I'm saying instead of letters, you limit</p> <p>19 it to postcards; right?</p> <p>20 A. Yes.</p> <p>21 Q. And you're saying the risk, the reason why you</p> <p>22 do it, the ones you've identified is that the</p> <p>23 prisoner could grind up toothpaste or an aspirin</p> <p>24 and it's not a genuine safety risk, it's the</p> <p>25 alarm that it would cause; right?</p>	<p>1 A. No.</p> <p>2 Q. Why?</p> <p>3 A. I don't know. I wasn't, if you're asking if I</p> <p>4 was like surprised or shocked when I read this</p> <p>5 e-mail? No.</p> <p>6 Q. Why did there used to be a prohibition against</p> <p>7 inmate-to-inmate correspondence?</p> <p>8 A. I don't know.</p> <p>9 Q. You were the jail commander; right?</p> <p>10 A. Yes.</p> <p>11 Q. Shouldn't you know the answer to that question?</p> <p>12 It's your jail mail policy.</p> <p>13 A. I didn't write the jail policy. No.</p> <p>14 Q. Shouldn't you know the justification for the</p> <p>15 policies that you are in charge of implementing?</p> <p>16 A. Not necessarily, no.</p> <p>17 Q. Okay. So do you know whether the current inmate</p> <p>18 policy inmate mail policy allows</p> <p>19 inmate-to-inmate correspondence?</p> <p>20 A. The June 18th one?</p> <p>21 Q. Yes.</p> <p>22 A. Yes.</p> <p>23 Q. It does allow it?</p> <p>24 A. Yes, with the exception of if there's a no</p> <p>25 contact order.</p>

44 (Pages 170 to 173)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 174	Page 176
<p>1 Q. Okay. When you became the undersheriff, there</p> <p>2 weren't very many policies that the department</p> <p>3 has; is that correct?</p> <p>4 A. Correct.</p> <p>5 Q. And you borrowed a great number of them from</p> <p>6 Washington County; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. Tweaked them to make them your own?</p> <p>9 A. Yes.</p> <p>10 Q. But that's where you got a lot of them; right?</p> <p>11 A. Yes. And I want to make a distinction. There's</p> <p>12 two policy manuals. There's a general sheriff's</p> <p>13 office policy and then there's a jail</p> <p>14 operational policy. And what I'm referring to</p> <p>15 in answering your question is our general</p> <p>16 policy, not the jail operational policy.</p> <p>17 Q. Could you explain the difference, please.</p> <p>18 A. The difference is that there was somewhat of a,</p> <p>19 I'm not too familiar again because when I came</p> <p>20 over I didn't oversee the jail, but there was,</p> <p>21 there was somewhat of a jail operational policy</p> <p>22 manual. But there was a very, very small amount</p> <p>23 of general policies. And so we created a policy</p> <p>24 manual to oversee all of our personnel and also</p> <p>25 a lot of enforcement type stuff because the main</p>	<p>1 A. Well, it takes time. You can't implement a new</p> <p>2 policy immediately. We didn't have all the</p> <p>3 preposted envelopes and a system in place to</p> <p>4 effect that immediately. So it takes time to do</p> <p>5 that. We have to order it, put it on</p> <p>6 commissary, get it in our indigent kits, create</p> <p>7 a system for our deputies reviewing that.</p> <p>8 I mean, some of our deputies may or may not</p> <p>9 have been hired before or after the</p> <p>10 postcard-only policy went into place. We have</p> <p>11 deputies on all different shifts. We can't just</p> <p>12 communicate it instantaneously. Inmate mail is</p> <p>13 not the only thing we deal with at the sheriff's</p> <p>14 office. So we have other things going on. So</p> <p>15 it's not any type of policy cannot take effect</p> <p>16 instantaneously.</p> <p>17 Q. If The Court did not order the department to get</p> <p>18 rid of its postcard-only policy, would you favor</p> <p>19 keeping it?</p> <p>20 A. I have no intentions and in my conversation with</p> <p>21 the sheriff we have no intentions of going back</p> <p>22 to a postcard-only policy --</p> <p>23 Q. Why?</p> <p>24 A. -- with or without, whatever the result is of</p> <p>25 this lawsuit.</p>
Page 175	Page 177
<p>1 policy was only for jail operations. And so I'm</p> <p>2 not sure. I wasn't involved in any changes or</p> <p>3 additions to that jail operational policy</p> <p>4 manual.</p> <p>5 (Exhibit 112 marked for identification.)</p> <p>6 Q. BY MR. WING: Okay. Handing you Exhibit 112.</p> <p>7 Did you receive this on or about June 11, 2012?</p> <p>8 A. Yes.</p> <p>9 Q. In this e-mail the sheriff acknowledges the</p> <p>10 preliminary injunction; right?</p> <p>11 A. Uh-huh.</p> <p>12 Q. Is that a yes?</p> <p>13 A. Yes. Sorry.</p> <p>14 Q. It's okay. He says, "Although the ruling does</p> <p>15 not take effect until the end of the month, we</p> <p>16 will immediately begin accepting envelopes for</p> <p>17 incoming mail." Did I read that correctly?</p> <p>18 A. Yes.</p> <p>19 Q. But then he says in parentheses "Outgoing mail</p> <p>20 will be addressed with the new inmate mail</p> <p>21 policy that will come out. And until that time,</p> <p>22 we will continue to provide only postcards for</p> <p>23 outgoing mail."</p> <p>24 A. Yes.</p> <p>25 Q. Why is that the case?</p>	<p>1 Q. Why?</p> <p>2 A. I think my personal opinion is I want to err on</p> <p>3 the side of caution as far as violating</p> <p>4 someone's rights. My personal opinion is this:</p> <p>5 The postcard-only policy does not violate any</p> <p>6 constitutional rights, but I want to err on the</p> <p>7 side of caution. And we've already made this</p> <p>8 policy. I don't think there's a reason to</p> <p>9 change that unless we have to for some reason</p> <p>10 change it again because of a judge's order or</p> <p>11 something. But I don't think we need to go back</p> <p>12 to -- I mean, part of the problem with our staff</p> <p>13 is the constant changes. So that's, you</p> <p>14 mentioned problems before is the constantly</p> <p>15 changing it is going to make it harder for them</p> <p>16 to remember. So I don't see any reason to go</p> <p>17 back to postcard-only policy.</p> <p>18 Q. I think you said it creates more of a safety</p> <p>19 risk for your employees, didn't you?</p> <p>20 A. I did. And we will deal with it.</p> <p>21 Q. But why would you not want to go back if you</p> <p>22 think that it would reduce the --</p> <p>23 A. I think I just explained all those reasons.</p> <p>24 Q. Just a second. I need for you to wait for me to</p> <p>25 finish.</p>

45 (Pages 174 to 177)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 178	Page 180
<p>1 You don't think the postcard-only policy</p> <p>2 violates someone's rights and you think it</p> <p>3 creates more of a safety risk for your</p> <p>4 employees, but you're saying you wouldn't want</p> <p>5 to go back to the postcard-only policy; is that</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. Does the sheriff agree with you?</p> <p>9 A. In my conversations with the sheriff, both of us</p> <p>10 have absolutely no intention of going back to a</p> <p>11 postcard-only policy.</p> <p>12 Q. And the sheriff also agrees with you that he</p> <p>13 thinks the postcard-only policy does not violate</p> <p>14 rights?</p> <p>15 A. That I can't answer.</p> <p>16 Q. You've not talked about that with him?</p> <p>17 A. I don't know if I've had that exact conversation</p> <p>18 of do you think this is constitutional or not.</p> <p>19 Q. Did you tell him that you think that it's</p> <p>20 constitutional?</p> <p>21 A. I may have. I don't know. I don't remember</p> <p>22 specifically saying that to him, no.</p> <p>23 Q. Did you have conversations with him about not</p> <p>24 changing the postcard-only policy before the</p> <p>25 judge issued the preliminary injunction?</p>	<p>1 (Record read as follows:</p> <p>2 "Q So the only reason why you wouldn't</p> <p>3 go back to a postcard-only policy is</p> <p>4 because the judge has told you to change</p> <p>5 it and you have now changed it; is that</p> <p>6 correct?")</p> <p>7 THE WITNESS: That's incorrect.</p> <p>8 Q. BY MR. WING: Well, you've made a lot of</p> <p>9 changes, right, in the past six months?</p> <p>10 A. Yes.</p> <p>11 Q. And you said one of the downsides is that people</p> <p>12 get confused by this; right?</p> <p>13 A. Yes.</p> <p>14 Q. It's hard to transition. Okay. You've now made</p> <p>15 a change because you were ordered to; right?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. You're saying you'd stick with that</p> <p>18 change even if the judge says I'm not going to</p> <p>19 tell you that you got to stick with that change;</p> <p>20 right?</p> <p>21 A. Yes.</p> <p>22 Q. Your testimony is you wouldn't go back because,</p> <p>23 gee, we've already done it?</p> <p>24 A. I said that was one of the reasons. I think I</p> <p>25 in my earlier testimony explained a few</p>
Page 179	Page 181
<p>1 A. About --</p> <p>2 Q. We're not going to change the policy. That's</p> <p>3 what you guys decided; right?</p> <p>4 A. About not -- Okay.</p> <p>5 Q. Until the judge issued the order.</p> <p>6 A. I'm trying to get your question right. You are</p> <p>7 asking if we had a conversation about not going</p> <p>8 from envelopes to postcard only?</p> <p>9 Q. No. I'm sorry. Let me rephrase my question.</p> <p>10 Before the judge issued a preliminary</p> <p>11 injunction, sheriff's department decided not to</p> <p>12 give up its postcard-only policy; right?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Why?</p> <p>15 A. I think for safety and security reasons and</p> <p>16 didn't believe we were violating anybody's</p> <p>17 constitutional rights by keeping that part.</p> <p>18 Q. So the only reason why you wouldn't go back to a</p> <p>19 postcard-only policy is because the judge has</p> <p>20 told you to change it and you have now changed</p> <p>21 it; is that correct?</p> <p>22 A. I'm sorry. Is the question, is the question</p> <p>23 whether the judge said change it and we changed</p> <p>24 it?</p> <p>25 MR. WING: Can you read my question back.</p>	<p>1 different reasons.</p> <p>2 Q. Well, you said you wanted to err on the side of</p> <p>3 not violating somebody's rights, but your belief</p> <p>4 is that it doesn't violate somebody's rights;</p> <p>5 right?</p> <p>6 A. That's my personal opinion. Yes.</p> <p>7 Q. Okay.</p> <p>8 A. But I'm going to err on the side of any future</p> <p>9 legal opinions.</p> <p>10 Q. Sorry. I don't quite understand what you just</p> <p>11 said. Err on the side of --</p> <p>12 A. Well, there's been court rulings around this</p> <p>13 country that have upheld postcard-only policies</p> <p>14 in some fashion or the other. I'm not a legal</p> <p>15 expert. I haven't reviewed all those. But we</p> <p>16 have a newer opinion and a lot closer to home,</p> <p>17 and it's not a legal opinion but it's a, I</p> <p>18 believe he used the words in his ruling that it</p> <p>19 may or it is likely to. I can't remember the</p> <p>20 exact words. And so there's no reason for us to</p> <p>21 go there again.</p> <p>22 Q. Suppose this case continues and a judge says,</p> <p>23 well, I said it was likely to but at the end of</p> <p>24 the day I don't think it does.</p> <p>25 A. I think I answered that by saying we won't go</p>

46 (Pages 178 to 181)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 182	Page 184
<p>1 back.</p> <p>2 Q. Even under those circumstances?</p> <p>3 A. Correct. And that's how the sheriff and I feel.</p> <p>4 Q. The sheriff is up for re-election; is that</p> <p>5 right?</p> <p>6 A. Yes.</p> <p>7 Q. And when's that election take place?</p> <p>8 A. November.</p> <p>9 Q. And he has some challengers; is that right?</p> <p>10 A. He has a challenger, yes.</p> <p>11 Q. And are you his campaign manager again?</p> <p>12 A. I'm involved in his campaign. I don't know if</p> <p>13 I've been officially titled anything yet.</p> <p>14 Basically yes.</p> <p>15 Q. Okay.</p> <p>16 A. I don't have a business card saying that like</p> <p>17 last time.</p> <p>18 Q. And I'm not asking you to predict the outcome of</p> <p>19 the election, but I'm curious, is there common</p> <p>20 wisdom or perception about how serious of a</p> <p>21 challenge this is?</p> <p>22 A. My personal opinion is it's not much of a</p> <p>23 challenge.</p> <p>24 Q. Okay. And the person who is challenging is a</p> <p>25 current employee; is that right?</p>	<p>1 sheriff, there would be no more, quote, unquote,</p> <p>2 bullshit write-ups, that we would respond to</p> <p>3 every single call that came in from the public</p> <p>4 and we would not let people out of jail early.</p> <p>5 Those are three of the main things that I have</p> <p>6 heard that he said, has said.</p> <p>7 Q. Okay. Thank you.</p> <p>8 MR. ROBERSON: Just to clarify, you don't</p> <p>9 know if he said those things; you just heard he</p> <p>10 said those things.</p> <p>11 THE WITNESS: Correct. I have not heard he</p> <p>12 said those things firsthand. I have not heard</p> <p>13 them from his mouth.</p> <p>14 Q. BY MR. WING: I understand. I understand. Who</p> <p>15 is in charge of updating the inmate manual most</p> <p>16 recently?</p> <p>17 A. I believe that fell to three people, in</p> <p>18 particular, and that would be Sergeant Cutright,</p> <p>19 Sergeant Rigdon and Deputy Marcia Rush.</p> <p>20 However, I believe the content itself, the</p> <p>21 wording, was the sergeant's and I think Deputy</p> <p>22 Rush was more involved in the facilitating</p> <p>23 getting it printed, that kind of thing.</p> <p>24 Q. Okay. And to your knowledge --</p> <p>25 A. I'm sorry. I want to go back.</p>
Page 183	Page 185
<p>1 A. Yes.</p> <p>2 Q. Who is that?</p> <p>3 A. Deputy Dave Fuller.</p> <p>4 Q. Day or Dave?</p> <p>5 A. Dave.</p> <p>6 Q. And he is a, in which department?</p> <p>7 A. Enforcement.</p> <p>8 Q. Do you know what his premise is as to why he</p> <p>9 would be a better sheriff?</p> <p>10 A. I'd only have speculation.</p> <p>11 Q. Well, what he has said.</p> <p>12 A. Well, he doesn't say a lot to me.</p> <p>13 Q. So what you have heard he said.</p> <p>14 A. What I have heard he said?</p> <p>15 Q. Yes.</p> <p>16 A. So I guess my, start my answer that this is all</p> <p>17 speculation but, and rumor, but what I've --</p> <p>18 MR. ROBERSON: Don't speculate. Don't</p> <p>19 guess.</p> <p>20 THE WITNESS: Then I guess I can't answer</p> <p>21 that.</p> <p>22 Q. BY MR. WING: Well, you can tell me what you've</p> <p>23 heard. That's not a speculation. I'm asking</p> <p>24 you to tell me what you've heard.</p> <p>25 A. Okay. What I've heard is he said if he was</p>	<p>1 Q. Okay.</p> <p>2 A. Was that question in regards to the most recent</p> <p>3 inmate manual?</p> <p>4 Q. Yes.</p> <p>5 A. Okay. I was referring to the old inmate, the</p> <p>6 prior to January when I answered that question.</p> <p>7 Q. Okay.</p> <p>8 A. The most very current inmate manual was the</p> <p>9 sheriff.</p> <p>10 Q. And there's been two?</p> <p>11 A. Yes.</p> <p>12 Q. Right?</p> <p>13 A. And he did both. He may have asked other people</p> <p>14 for input, but...</p> <p>15 Q. Did he ask for your input?</p> <p>16 A. No. Both times when we wanted to get that</p> <p>17 rolling, I was, I was busy.</p> <p>18 Q. Okay. During the sheriff's deposition there was</p> <p>19 a break and he called you on the break. Do you</p> <p>20 remember that?</p> <p>21 A. Yes. I don't know for sure if it was a call or</p> <p>22 an e-mail. Yeah, I think you're right. It was</p> <p>23 a call.</p> <p>24 Q. And he asked you a question during that call.</p> <p>25 Do you remember that question?</p>

47 (Pages 182 to 185)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

<p style="text-align: right;">Page 190</p> <p>1 didn't make any changes or adjustments to any of 2 the drafts or insert any new opinions into the, 3 any of the versions of the inmate manual. 4 Q. Okay. What, to your knowledge, is the 5 difference between the May 25th mail policy and 6 the June 18th mail policy? 7 A. The main difference? 8 Q. Whatever you -- 9 A. I believe the main difference is one allows 10 envelopes and one doesn't. That's the main 11 difference. The other probably main difference 12 would be the sexually explicit definition. 13 Although that may be in the May 25th policy. 14 I'd have to sit and compare the policies. 15 Q. Okay. Could you please turn to Exhibit 65. 16 Please take a look at that. And there's a 17 second page. 18 A. Oh. 19 Q. It's an envelope that contained that. 20 A. Okay. 21 Q. Would you take a look at what that is, please. 22 Second page of Exhibit 65. Have you had an 23 opportunity to look at that? 24 A. Yes. 25 Q. If this letter, an envelope with that content,</p>	<p style="text-align: right;">Page 192</p> <p>1 publication? 2 A. Yeah. I would consider that a publication. 3 Q. And where do publications have to come from? 4 A. If you're referring to the definition in our 5 policy, I'd like to refer to that. 6 Q. Sure. You take your pick. 7 A. Yeah. Which one? I don't think you have the, 8 it in an exhibit, but you have that e-mail I saw 9 which has it attached. 10 MR. ROBERSON: Exhibit 110. 11 THE WITNESS: Yes. That is considered a, 12 publications are considered periodicals and 13 books and periodicals of a magazine, newspaper, 14 newsletter or other publication formed of 15 printed sheets that is issued at regular, 16 specified intervals by a publisher. So I could 17 consider this a newsletter and probably also a 18 publication under that definition. 19 Q. BY MR. WING: Okay. I'm not trying to talk you 20 out of your statement that it will be delivered, 21 but I want to make sure that we're on the same 22 page about this. Do you see who it was sent by? 23 A. I didn't. No. 24 Q. Okay. 25 A. As far as I, a person, I saw that it was a</p>
<p style="text-align: right;">Page 191</p> <p>1 news article, was mailed to the jail tomorrow, 2 what is your understanding of what the mail 3 policy at the jail would dictate? Would it be 4 delivered? 5 A. If this envelope, so this is an envelope with 6 this inside of it, would it be delivered 7 tomorrow? 8 Q. Exhibit 65. 9 A. Absolutely. 10 Q. And why is that? 11 A. Because that's what our policy says. And I have 12 confidence our policy is being followed at this 13 time. 14 Q. You said that with a smile. 15 A. Yes. 16 MR. WING: Why don't we take a short break. 17 I want to see if, I might be fairly close here 18 and I want to just gather my thoughts together. 19 (Break taken from 4:11 to 4:24.) 20 Q. BY MR. WING: Just before the break we were 21 looking at Exhibit 65 and you said you thought 22 definitely this would be delivered in the jail; 23 is that right? 24 A. Yes. 25 Q. Okay. Is the second page of Exhibit 65 a</p>	<p style="text-align: right;">Page 193</p> <p>1 person, yes. 2 Q. Okay. And so if a publication is sent by a 3 person, is that acceptable under your policy? 4 A. I believe a printed-out internet message is. 5 Q. You are reviewing your current policy; is that 6 right? 7 A. Yes. 8 Q. Okay. 9 A. I would, I would say that this also falls under 10 regular inmate mail. 11 Q. Okay. So you're just -- 12 A. If it came from a personal person, it would be 13 regular inmate mail from the envelope. So we 14 would open it. It doesn't violate any other 15 policy. 16 Q. Okay. So having considered Exhibit 65, this 17 print-off of a PLN news article from the 18 internet, sent by an individual, would be 19 admitted under your current policy? 20 A. Yeah. I believe it's just like any 21 correspondence. 22 Q. Okay. While I understand that the sheriff could 23 overrule you, as things currently stand, you are 24 the final arbiter of what does and does not 25 violate the policy in the ordinary course;</p>

49 (Pages 190 to 193)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 194	Page 196
<p>1 right?</p> <p>2 A. Yes. The only, only difference there would be</p> <p>3 if I'm the one who rejected the mail in the</p> <p>4 first place, which is highly unlikely, then,</p> <p>5 then that appeal goes directly to the sheriff.</p> <p>6 Q. Okay.</p> <p>7 A. Yes.</p> <p>8 Q. But otherwise you are the final arbiter?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Thank you. You are, excuse me if I have</p> <p>11 forgotten this, but I think in the morning we</p> <p>12 talked about the Oregon State Sheriffs'</p> <p>13 Association and you are on the LISTSERV? I</p> <p>14 don't know if we've talked about that.</p> <p>15 A. Yes. I'm on several LISTSERVS. I'm on the jail</p> <p>16 LISTSERV. I'm on the search and rescue LISTSERV</p> <p>17 and the enforcement council LISTSERV.</p> <p>18 Q. Okay. And do you read the e-mails that come on</p> <p>19 the LISTSERV?</p> <p>20 A. Not every one.</p> <p>21 Q. But a fair number of them?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And you have seen e-mails that relate</p> <p>24 specifically to Prison Legal News, have you not?</p> <p>25 A. Yes.</p>	<p>1 A. Yes.</p> <p>2 Q. And you see where it says, third paragraph down,</p> <p>3 this is a message from Marie Tyler. Do you</p> <p>4 see --</p> <p>5 A. Yes.</p> <p>6 Q. "PLN is suing because the jail is not allowing</p> <p>7 in magazines like Prison Legal News and because</p> <p>8 of the postcard-only. It appears that PLN,</p> <p>9 Prison Legal News, has been reviewing jail</p> <p>10 policies on the web and they are targeting those</p> <p>11 that don't seem up to snuff." Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. "Every jail should review their mail policy. If</p> <p>14 you're not allowing bulk or junk mail in, either</p> <p>15 solicited or unsolicited, you might want to get</p> <p>16 it fixed. The Ninth Circuit ruling that</p> <p>17 prohibition doesn't pass the Turner test in</p> <p>18 2005, Prison Legal News versus Lehman." Do you</p> <p>19 see that?</p> <p>20 A. Yes.</p> <p>21 Q. Did you read that case, Prison Legal News versus</p> <p>22 Lehman?</p> <p>23 A. I have after the...</p> <p>24 Q. The lawsuit was filed?</p> <p>25 A. Yeah. I gave, at some point in time I was</p>
Page 195	Page 197
<p>1 Q. And you have seen e-mails about your lawsuit</p> <p>2 being discussed on the LISTSERV; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. In fact, you've had communications with, in</p> <p>5 particular, folks from the Washington County</p> <p>6 Sheriff's Department about your lawsuit; is that</p> <p>7 right?</p> <p>8 A. I'm not so sure I have -- Oh, yes. As far as</p> <p>9 getting draft policies and that kind of stuff?</p> <p>10 Q. Yeah.</p> <p>11 A. Yes. I don't believe I responded to any</p> <p>12 LISTSERV e-mails.</p> <p>13 Q. But, I mean, you've received them?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. The policy that you adopted in January</p> <p>16 when you -- When I say "you" I mean the</p> <p>17 sheriff's department --</p> <p>18 A. Right.</p> <p>19 Q. -- was largely drawn from the Washington County</p> <p>20 mail policy; right?</p> <p>21 A. Yes.</p> <p>22 Q. Okay.</p> <p>23 (Exhibit 116 marked for identification.)</p> <p>24 Q. BY MR. WING: Do you recall receiving what is</p> <p>25 marked as Exhibit 116?</p>	<p>1 provided a copy of that.</p> <p>2 Q. What did you learn?</p> <p>3 A. I learned a lot of things. I learned about the</p> <p>4 due process that was required to go to the</p> <p>5 sender. Well, actually I would say everything</p> <p>6 in that case law was new to me because I had</p> <p>7 never reviewed that case law before. But as far</p> <p>8 as the violations that our policy existed was</p> <p>9 one of the ones I talked about earlier in the</p> <p>10 day here in my testimony was the due process to</p> <p>11 the sender and the junk and bulk mail rejection.</p> <p>12 Q. And what is your best understanding, not looking</p> <p>13 for a word-by-word definition, of what bulk mail</p> <p>14 is?</p> <p>15 A. In my personal opinion, bulk mail is the same as</p> <p>16 junk mail. Maybe it's the opposite. Junk mail</p> <p>17 is the same as bulk mail.</p> <p>18 Q. I think you said earlier your view of junk mail</p> <p>19 is mail that you don't want?</p> <p>20 A. Yeah.</p> <p>21 Q. Okay. Do you have an understanding from reading</p> <p>22 Prison Legal News versus Lehman of what bulk</p> <p>23 mail is according to the court?</p> <p>24 A. Basically unsolicited mail, which means, a</p> <p>25 person might not be requesting it.</p>

50 (Pages 194 to 197)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 218	Page 220
<p>1 If you think there's something on there that</p> <p>2 Ms. Hanson wrote, I could understand that you</p> <p>3 might decide to redact that, but I think the</p> <p>4 whole tenor of the attorney-client privilege is,</p> <p>5 it's recognized that facts can't be considered</p> <p>6 privilege just because you give a copy to your</p> <p>7 lawyer.</p> <p>8 MR. ROBERSON: Well, what I'm hearing is</p> <p>9 that there was a discussion between Undersheriff</p> <p>10 Moyer and his attorney about changes made to the</p> <p>11 policy and he's testified to what he remembers</p> <p>12 his changes are, which I think is fine. But I</p> <p>13 think the document is work product and the</p> <p>14 conversations are attorney-client privileged.</p> <p>15 However, I am happy to take a look at that</p> <p>16 document again and get back to you.</p> <p>17 MR. WING: Yeah. And just to be clear, I'm</p> <p>18 not asking him to disclose what his oral</p> <p>19 communications were, his discussions with her,</p> <p>20 but I think that the comments that he wrote are</p> <p>21 not work product. He wrote them so that they</p> <p>22 would be implemented in the policy. And we</p> <p>23 can't allow somebody to give them to a lawyer to</p> <p>24 type and then they become attorney-client</p> <p>25 privilege. So you'll look at that again?</p>	<p>1 Tony Weaver or somebody you spoke to spoke to</p> <p>2 Tony Weaver?</p> <p>3 A. Yeah. I could have asked a sergeant to have</p> <p>4 somebody do that. So I can't say for certain</p> <p>5 that I spoke to Tony Weaver.</p> <p>6 Q. Okay. But I think this incident as described</p> <p>7 here is a product of you instructing somebody to</p> <p>8 find out?</p> <p>9 A. Yes.</p> <p>10 Q. Undersheriff Moyer, were you involved in</p> <p>11 adopting a template response to prisoners who</p> <p>12 complained that they thought the postcard-only</p> <p>13 policy violated their constitutional rights?</p> <p>14 A. No.</p> <p>15 Q. Have you ever seen that?</p> <p>16 A. Yes.</p> <p>17 Q. How did you first become aware of that?</p> <p>18 A. I don't recall how I first become aware of it.</p> <p>19 I don't recall how I first became aware of it.</p> <p>20 Q. Okay. Did you support it?</p> <p>21 A. I guess when I first became aware of it, I</p> <p>22 didn't even read it. I wasn't in charge of the</p> <p>23 jail when that first came about.</p> <p>24 Q. But --</p> <p>25 A. So I knew that there, I knew that that was</p>
Page 219	Page 221
<p>1 MR. ROBERSON: Uh-huh. Sure.</p> <p>2 MR. WING: Thank you.</p> <p>3 MR. ROBERSON: I mean yes.</p> <p>4 Q. BY MR. WING: We're all prone to that, aren't</p> <p>5 we? Okay. Let's get this wrapped up.</p> <p>6 (Exhibit 124 marked for identification.)</p> <p>7 Q. BY MR. WING: Here is Exhibit 124. Have you</p> <p>8 seen this before?</p> <p>9 A. Yes.</p> <p>10 Q. When did you see it?</p> <p>11 A. Shortly after that date. This was the, what I</p> <p>12 testified to earlier about that I directed after</p> <p>13 I received notice of the lawsuit, I directed</p> <p>14 somebody who now I see who it was. Although</p> <p>15 just because he did it doesn't mean that's the</p> <p>16 person who I talked to. But to, because I knew</p> <p>17 firsthand that I have seen Prison Legal News</p> <p>18 delivered or be in, or inmates in possession of.</p> <p>19 So I wanted to find out how many inmates have it</p> <p>20 and are issued to it.</p> <p>21 Q. So this says Prison Daily News. You think</p> <p>22 that's just a, somebody misunderstood, it's</p> <p>23 actually Prison Legal News?</p> <p>24 A. Yes. That would be my opinion of that, yeah.</p> <p>25 Q. Okay. And so you think that you either spoke to</p>	<p>1 generated.</p> <p>2 Q. Okay. And then you did become aware of it and</p> <p>3 did you read it?</p> <p>4 A. I'm not sure if I've ever read that.</p> <p>5 Q. What do you think about the general idea?</p> <p>6 A. Of a?</p> <p>7 Q. An automatic response.</p> <p>8 A. Of an automatic response?</p> <p>9 Q. Yeah. Let's look at Exhibit 43.</p> <p>10 A. Okay.</p> <p>11 Q. Do you see the second page of Exhibit 43?</p> <p>12 A. Uh-huh. In general, in regards to an automatic,</p> <p>13 automated response, there are good things and</p> <p>14 bad things about automated responses.</p> <p>15 Q. And this particular template, whenever somebody</p> <p>16 says I think my constitutional rights are being</p> <p>17 violated, the 1st Amendment, when you do this,</p> <p>18 what do you think about this being the response?</p> <p>19 A. I agree with it.</p> <p>20 Q. Do you think that a good deal of review went</p> <p>21 into deciding whether to adopt the postcard-only</p> <p>22 policy?</p> <p>23 A. By whom?</p> <p>24 Q. That's one of the things it says in that</p> <p>25 template, doesn't it?</p>

56 (Pages 218 to 221)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 222	Page 224
<p>1 A. It doesn't say who.</p> <p>2 Q. Well, okay. That's a great question. Did your</p> <p>3 sheriff's department give a good deal of review</p> <p>4 to deciding whether to adopt a postcard only</p> <p>5 policy?</p> <p>6 A. I think we relied on a lot of review from the</p> <p>7 Washington County Sheriff's Office through the</p> <p>8 Sheriffs' Association.</p> <p>9 Q. Is there any other policy you're aware of where</p> <p>10 you've adopted where you haven't really done</p> <p>11 much independent assessment yourself, you relied</p> <p>12 on another sheriff's department?</p> <p>13 A. I don't recall.</p> <p>14 Q. Okay. So it's true that your sheriff's</p> <p>15 department didn't do a good deal of review</p> <p>16 before adopting --</p> <p>17 A. I'm not sure what review we did.</p> <p>18 Q. So why do you agree with this since you don't</p> <p>19 know?</p> <p>20 A. I agree with the response.</p> <p>21 Q. The response tells the prisoners that a good</p> <p>22 deal of review went into it; right?</p> <p>23 A. And I believe Washington County did a good deal</p> <p>24 of review, from what I understand.</p> <p>25 Q. And how did you learn that?</p>	<p>1 both, but I believe it was their counsel.</p> <p>2 Q. And do you have any understanding about these</p> <p>3 other lawsuits that you think --</p> <p>4 A. No.</p> <p>5 Q. -- you weren't told about?</p> <p>6 A. No.</p> <p>7 Q. So you don't know, for example, whether they</p> <p>8 were brought by a prisoner?</p> <p>9 A. No, I don't.</p> <p>10 Q. Right, or whether the prisoner responded at all</p> <p>11 or presented any evidence at all?</p> <p>12 A. I do not.</p> <p>13 (Exhibit 125 marked for identification.)</p> <p>14 Q. BY MR. WING: Handing you Exhibit 125, do you</p> <p>15 recognize this? I point your attention to the</p> <p>16 grievance which says, "I feel that the postcard</p> <p>17 rule violates my 1st and 14th Amendment rights."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Did your department make any effort to</p> <p>21 investigate that?</p> <p>22 A. I'm not sure. This grievance didn't make it to</p> <p>23 me.</p> <p>24 Q. Okay. But we have every reason to believe that</p> <p>25 the response was the same as the second page of</p>
Page 223	Page 225
<p>1 A. In our meetings.</p> <p>2 Q. Do you have any idea what review your sheriff's</p> <p>3 department engaged in before adopting the</p> <p>4 policy?</p> <p>5 A. I don't. I don't recall exactly how that went.</p> <p>6 Q. Do you recall anything?</p> <p>7 A. Yeah. As I have testified earlier today, I</p> <p>8 recall having a conversation about should we do</p> <p>9 this or should we not.</p> <p>10 Q. Was any one effort made to determine the</p> <p>11 constitutionality of the postcard-only policy?</p> <p>12 A. Yes. During our presentation it was brought up</p> <p>13 by counsel from Washington County that it had</p> <p>14 passed several constitutional testing in</p> <p>15 different courts.</p> <p>16 Q. This was when?</p> <p>17 A. This was in, I believe that was back in the 2009</p> <p>18 or 2010, before we went to the policy, I</p> <p>19 believe.</p> <p>20 Q. So you were at the meeting --</p> <p>21 A. That their counsel had reviewed it. I think</p> <p>22 that's who made the presentation. I don't</p> <p>23 recall exactly. I wasn't in charge of the jail</p> <p>24 then. But I don't know if it was the jail</p> <p>25 commander or Washington County's counsel or</p>	<p>1 Exhibit 43, right, the template? Isn't that the</p> <p>2 purpose of the template, when somebody writes</p> <p>3 the --</p> <p>4 A. Is that the same one?</p> <p>5 Q. No. I'm just saying that's the purpose of the</p> <p>6 template; right? When a prisoner says the</p> <p>7 postcard-only policy violates my rights, then</p> <p>8 you type in the person's name and you print off</p> <p>9 the template?</p> <p>10 A. Yes. But I'm not sure that all of our deputies</p> <p>11 were using that template.</p> <p>12 Q. Okay. But that's what you would expect to</p> <p>13 happen; right?</p> <p>14 A. I've never given that order.</p> <p>15 Q. Okay.</p> <p>16 A. So I don't know.</p> <p>17 (Exhibit 126 marked for identification.)</p> <p>18 Q. BY MR. WING: This is Exhibit 126. Do you see</p> <p>19 the grievance there, "Postcard-only policy</p> <p>20 violates my 1st Amendment rights as well as the</p> <p>21 rights of nonincarcerated recipients who wish to</p> <p>22 receive prisoners' correspondence"? Do you see</p> <p>23 that?</p> <p>24 A. Yes.</p> <p>25 Q. Again, if you look at the second page, what's</p>

57 (Pages 222 to 225)

Beovich Walter & Friend

Moyer, Andrew

July 6, 2012

Page 239

C E R T I F I C A T E

I, Aleshia K. Macom, CSR No. 94-0296, do hereby certify that ANDREW MOYER personally appeared before me at the time and place mentioned in the caption herein; that the witness was by me first duly sworn on oath, and examined upon oral interrogatories propounded by counsel; that said examination, together with the testimony of said witness, was taken down by me in stenotype and thereafter reduced to typewriting; and that the foregoing transcript, Pages 1 to 238, both inclusive, constitutes a full, true and accurate record of said examination of and testimony given by said witness, and of all other proceedings had during the taking of said deposition, and of the whole thereof, to the best of my ability.

Witness my hand at Portland, Oregon, this 18th day of July, 2012.



Aleshia K. Macom

CSR No. 94-0296

Beovich Walter & Friend

Cutright, Bryan

May 9, 2012

Page 1

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

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

No. 3:12-CV-71-SI

Plaintiff,

v.

COLUMBIA COUNTY; Columbia
County Sheriff's Office; JEFF
DICKERSON, individually and
in his capacity as Columbia
County Sheriff,

Defendants.

30(b)(6) DEPOSITION OF BRYAN CUTRIGHT

Taken in behalf of Plaintiff

May 9, 2012

Beovich Walter & Friend

Cutright, Bryan

May 9, 2012

Page 30	Page 32
<p>1 Dickerson's supplemental responses to</p> <p>2 plaintiff's first interrogatories and request</p> <p>3 for production; is that right?</p> <p>4 A. Yes.</p> <p>5 Q. Have you seen this document before?</p> <p>6 A. Not sure I've seen this document as is it's</p> <p>7 completed here, but I've seen parts of this</p> <p>8 document, yes.</p> <p>9 Q. Okay. Did you see the --</p> <p>10 A. I seen the questions on it. I haven't seen the</p> <p>11 responses on it.</p> <p>12 Q. Okay. And when did you first see the questions</p> <p>13 on Exhibit 6?</p> <p>14 A. I'm not sure the exact date.</p> <p>15 Q. Were you involved in adopting the responses?</p> <p>16 A. Not that I recall.</p> <p>17 Q. Were you involved in any way in gathering</p> <p>18 documents requested in Exhibit 6?</p> <p>19 A. Yes.</p> <p>20 Q. Please describe how you were involved in that.</p> <p>21 A. A lot of them, I pulled the files for the</p> <p>22 attorneys to review. I printed out reports out</p> <p>23 of the Golden Eagle system of different mail</p> <p>24 scans, incoming, outgoing mail and made some</p> <p>25 copies of some items out of the files.</p>	<p>1 Q. Where does the sheriff's office keep inmate</p> <p>2 files?</p> <p>3 A. In the booking area in a file storage room.</p> <p>4 Q. And what is kept in the file?</p> <p>5 A. Everything pertaining to that inmate's arrest,</p> <p>6 their court information, any kytes, any mail</p> <p>7 rejections, any grievances. There's a</p> <p>8 classification file that is in part of their</p> <p>9 file. It consists of classification material,</p> <p>10 any disciplinary write-ups.</p> <p>11 Q. Anything else?</p> <p>12 A. That's pretty much content of them.</p> <p>13 Q. Who selected which inmate files to pull?</p> <p>14 A. I'm not sure who selected them. I had a list</p> <p>15 from our attorneys that they wanted to see these</p> <p>16 files and...</p> <p>17 Q. You mentioned that mail rejections are included</p> <p>18 in inmate files. What's a mail rejection?</p> <p>19 A. It's a notice given to the inmate that a piece</p> <p>20 of mail has been either returned to sender or it</p> <p>21 has, consists of contraband, some type of form</p> <p>22 they're not going to receive the piece of mail</p> <p>23 item.</p> <p>24 Q. When did the jail start using mail rejection</p> <p>25 notices?</p>
Page 31	Page 33
<p>1 Q. Anything else?</p> <p>2 A. Not that I recall.</p> <p>3 Q. You mentioned pulling some files. What files</p> <p>4 are you referring to?</p> <p>5 A. Inmate files. A lot of the, there was a bunch</p> <p>6 of files that had to be reviewed. So I pulled</p> <p>7 inmate files out of our people that were not</p> <p>8 actually in custody. We file them in a file</p> <p>9 storage room and we pull each file to, for each</p> <p>10 inmate when they come back or when we're</p> <p>11 researching something from a past arrest.</p> <p>12 Q. Are there any other files that you looked in or</p> <p>13 pulled to respond to these requests?</p> <p>14 A. We pulled several files during this process.</p> <p>15 Q. Any other files other than inmate files?</p> <p>16 A. No.</p> <p>17 Q. So am I correct that your involvement in</p> <p>18 responding to these requests for production</p> <p>19 included assisting with pulling inmate files and</p> <p>20 printing reports from the Golden Eagle system?</p> <p>21 A. Correct.</p> <p>22 Q. Anything else?</p> <p>23 A. Not that I recall. I would have to read every</p> <p>24 one of the things here to find out. But not</p> <p>25 that I can recall off the top of my head.</p>	<p>1 A. We've had prohibited mail notices for quite some</p> <p>2 time. I'm not sure the exact date we started</p> <p>3 using them, but the current one we use started</p> <p>4 in February 2012.</p> <p>5 Q. And I understand you can't be exact. When do</p> <p>6 you believe that the jail started using</p> <p>7 prohibited mail notices?</p> <p>8 A. If I had to guess, I'd say probably sometime</p> <p>9 around 2008, 2009.</p> <p>10 Q. And has the jail's use of prohibited mail</p> <p>11 notices or mail rejection notices changed --</p> <p>12 A. Yes.</p> <p>13 Q. -- in the last three years?</p> <p>14 A. Yes.</p> <p>15 Q. How has it changed?</p> <p>16 A. The notice is totally different. It has a</p> <p>17 section for an appeal process and on the back of</p> <p>18 it, it has some other information added to it.</p> <p>19 The other one was just a short piece of paper</p> <p>20 that said inmate's name, this item was rejected</p> <p>21 for this reason, a signature, and that was</p> <p>22 pretty much all that was on it.</p> <p>23 Q. So the content, that is, the text of the</p> <p>24 prohibited mail notice or mail rejection form,</p> <p>25 that has changed over time?</p>

9 (Pages 30 to 33)

Beovich Walter & Friend

Cutright, Bryan

May 9, 2012

Page 34	Page 36
<p>1 A. Yes.</p> <p>2 Q. Okay. Has the jail's use of these notices</p> <p>3 changed in the last three years?</p> <p>4 A. The use hasn't changed but the frequency that</p> <p>5 they are used has changed.</p> <p>6 Q. Tell me about that.</p> <p>7 A. In the past they weren't used as often as they</p> <p>8 should be. Mail was just returned to sender</p> <p>9 without a prohibited mail slip being attached to</p> <p>10 it. And the way the new form is, it's a</p> <p>11 three-part form and one copy goes with the mail</p> <p>12 that's being returned so that the sender knows</p> <p>13 why it's returned.</p> <p>14 Q. You mention that the notices were not used as</p> <p>15 often as they should be in the past?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. So when were they used back then, how is</p> <p>18 it different now?</p> <p>19 A. They were used back, they were used back then,</p> <p>20 they were supposed to be used back then all the</p> <p>21 time. So they were used in the same principle,</p> <p>22 but they weren't always followed through and</p> <p>23 they weren't always done when something was</p> <p>24 returned to sender. And now it's more of a</p> <p>25 point to make sure it gets done.</p>	<p>1 doing the research on it, we realized there was</p> <p>2 not as many prohibited notices mail slips in the</p> <p>3 files as there should be.</p> <p>4 Q. And so how often were they being used?</p> <p>5 A. I couldn't tell you.</p> <p>6 Q. Rarely?</p> <p>7 A. I would say rarely.</p> <p>8 Q. And did you speak with any of the deputies or</p> <p>9 sergeants who processed the mail about how they</p> <p>10 had been using those notices?</p> <p>11 A. I didn't personally.</p> <p>12 Q. Did you learn anything about how those notices</p> <p>13 had been used in the past?</p> <p>14 A. You know, I, at that point in time it wasn't a</p> <p>15 matter of what was going on then. It was a</p> <p>16 matter of correcting the situation and making</p> <p>17 sure that it happens the right way in the</p> <p>18 future.</p> <p>19 Q. And were you involved in correcting the</p> <p>20 situation?</p> <p>21 A. No. I just spoke to the undersheriff.</p> <p>22 Q. Andrew Moyer?</p> <p>23 A. Yes.</p> <p>24 Q. What did you tell him?</p> <p>25 MR. KRAEMER: Tell who? The lawyer?</p>
Page 35	Page 37
<p>1 Q. When you say the notices were supposed to be</p> <p>2 used all the time, what do you mean? What event</p> <p>3 prompts the use of that notice?</p> <p>4 A. For example, when the postcards are being used,</p> <p>5 if the postcard was not going to be delivered,</p> <p>6 if it was unacceptable, material on there would</p> <p>7 prevent, or not prevent, but cause a security</p> <p>8 risk or violate one of the mail policies, it</p> <p>9 would be returned to sender. And the slips</p> <p>10 weren't always used when they were done that</p> <p>11 way. So they weren't filed -- If they were</p> <p>12 used, they weren't used properly because they</p> <p>13 weren't in the files.</p> <p>14 Q. Did you or anyone else, to your knowledge,</p> <p>15 investigate what was going on with the</p> <p>16 prohibited mail notices and why they weren't</p> <p>17 being used all the time?</p> <p>18 A. No.</p> <p>19 Q. When did this change occur, that is, you've</p> <p>20 described that the prohibited mail notices</p> <p>21 weren't always used. They were supposed to be</p> <p>22 used all of the time and now they're used more</p> <p>23 frequently. When did that change occur?</p> <p>24 A. We noticed that they weren't used as frequently</p> <p>25 when this lawsuit was filed. And when we were</p>	<p>1 MS. CHAMBERLAIN: Andrew Moyer.</p> <p>2 MR. KRAEMER: Sorry. Thank you. Appreciate</p> <p>3 that?</p> <p>4 THE WITNESS: I just informed him that the</p> <p>5 slips weren't being used in the past like they</p> <p>6 should have been, obviously because there's</p> <p>7 virtually none in the files.</p> <p>8 Q. BY MS. CHAMBERLAIN: And what did Andrew say?</p> <p>9 A. He said he would address the situation and talk</p> <p>10 to the supervisors, make sure that they start</p> <p>11 using them as they're needed.</p> <p>12 Q. Since the sheriff took office in January 2009,</p> <p>13 have you had an occasion to supervise someone</p> <p>14 processing the mail and their use of these</p> <p>15 prohibited mail notices or mail rejection</p> <p>16 notices?</p> <p>17 A. The new forms, no.</p> <p>18 Q. How about the old forms?</p> <p>19 A. Yes.</p> <p>20 Q. Tell me about that.</p> <p>21 A. They had a item that was not allowed to be in</p> <p>22 the facility or rejected for some reason and I</p> <p>23 would make sure, ask them, hey, did you fill out</p> <p>24 your slip yet? And if they said no, I would</p> <p>25 say, you need to fill out the slip. Make sure</p>

10 (Pages 34 to 37)

Beovich Walter & Friend

Cutright, Bryan

May 9, 2012

Page 174	Page 176
<p>1 Q. Why?</p> <p>2 A. The same as the last one. It doesn't violate</p> <p>3 safety and security or the operation of the</p> <p>4 facility and it falls under the junk/bulk mail.</p> <p>5 Q. Does Exhibit 24, when taken as a whole, lack</p> <p>6 serious literary, artistic, political,</p> <p>7 educational, religious or scientific value?</p> <p>8 A. I would say yes.</p> <p>9 Q. That it does lack?</p> <p>10 A. No. I would say that it does not lack. I'm</p> <p>11 sorry. It would be accepted in.</p> <p>12 Q. Do you consider Exhibit 24 to be personal mail?</p> <p>13 A. No.</p> <p>14 Q. Why not?</p> <p>15 A. Because.</p> <p>16 MR. KRAEMER: Asked and answered. Asked and</p> <p>17 answered. You are asking -- these exhibits are</p> <p>18 practically identical. You're asking the exact</p> <p>19 same questions. He's already told you the same</p> <p>20 answer.</p> <p>21 MS. CHAMBERLAIN: For the record, this</p> <p>22 letter has not been a part of any exhibit</p> <p>23 besides 24.</p> <p>24 MR. KRAEMER: I apologize. You're correct.</p> <p>25 Q. BY MS. CHAMBERLAIN: Sergeant, is it your</p>	<p>1 You can answer.</p> <p>2 THE WITNESS: This letter, if I was scanning</p> <p>3 the mail, wouldn't be opened unless the inmate</p> <p>4 was there and it would be considered the same</p> <p>5 thing as junk/bulk mail. It would be delivered</p> <p>6 to him.</p> <p>7 Q. BY MS. CHAMBERLAIN: Why would it be opened in</p> <p>8 the presence of the inmate?</p> <p>9 A. Because it's an envelope and it would be, I</p> <p>10 would treat it as personally just as if it was</p> <p>11 legal or official mail. Open it up and give it</p> <p>12 to him.</p> <p>13 (Exhibit 25 marked for identification.)</p> <p>14 Q. BY MS. CHAMBERLAIN: You've been handed</p> <p>15 Exhibit 25. Do you recognize it?</p> <p>16 A. Yes.</p> <p>17 Q. What is it?</p> <p>18 A. It's a mail violation notice.</p> <p>19 Q. Okay. What does it indicate?</p> <p>20 A. Indicates Mr. Weisenberger had a, a piece of</p> <p>21 mail restricted from going to him.</p> <p>22 Q. Why was it restricted?</p> <p>23 A. It says "Do not accept periodicals."</p> <p>24 Q. Is that accurate?</p> <p>25 A. No, it's not. Doesn't match the policy.</p>
Page 175	Page 177
<p>1 testimony that you would consider -- Strike</p> <p>2 that.</p> <p>3 Is Exhibit 24 personal mail?</p> <p>4 MR. KRAEMER: Object to the form.</p> <p>5 THE WITNESS: I would consider, if I was</p> <p>6 reviewing the mail I would consider this</p> <p>7 bulk/junk mail.</p> <p>8 Q. BY MS. CHAMBERLAIN: Now, the jail policy</p> <p>9 definition of personal mail is postcards mailed</p> <p>10 from friends, postcards mailed to or from</p> <p>11 family, friends, organizations, businesses or</p> <p>12 other unofficial entities.</p> <p>13 A. Correct.</p> <p>14 Q. Is that correct?</p> <p>15 A. Yes, it is.</p> <p>16 Q. Is personal mail also considered letters mailed</p> <p>17 to or from family, friends, organizations,</p> <p>18 businesses or other unofficial entities?</p> <p>19 MR. KRAEMER: Object to form.</p> <p>20 THE WITNESS: Could be.</p> <p>21 Q. BY MS. CHAMBERLAIN: Okay. But you would still</p> <p>22 not consider this personal mail?</p> <p>23 MR. KRAEMER: Object to form. It's</p> <p>24 argumentative now. He's already answered the</p> <p>25 question.</p>	<p>1 Q. So at the time that this mail violation notice</p> <p>2 was issued to prisoner Weisenberger, the jail</p> <p>3 did accept periodicals; is that right?</p> <p>4 A. Per the policy, yes.</p> <p>5 Q. So is this an error to censor it?</p> <p>6 A. Yes. This should have been appropriately marked</p> <p>7 under the form of nudity, I believe.</p> <p>8 Q. Excuse me?</p> <p>9 A. It was a magazine that was inappropriate. It</p> <p>10 wouldn't have been allowed in our facility</p> <p>11 anyway, but that was just the wrong reason it</p> <p>12 was checked.</p> <p>13 Q. How can you determine based on Exhibit 25 that</p> <p>14 there was nudity in this magazine?</p> <p>15 A. Because I know it was a Playboy.</p> <p>16 Q. How do you know that?</p> <p>17 A. I'm aware of the situation.</p> <p>18 Q. Based on what?</p> <p>19 A. Based on Sergeant McMiller passing that</p> <p>20 information on to me.</p> <p>21 Q. Was there any particular reason that the box</p> <p>22 "inappropriate content" was not marked?</p> <p>23 MR. KRAEMER: Wait. I am going to object to</p> <p>24 speculation if you're asking him why this other</p> <p>25 person didn't do something. How is that not</p>

45 (Pages 174 to 177)

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Cutright, Bryan

August 28, 2012

Page 9

C E R T I F I C A T E

I, Aleshia K. Macom, CSR No. 94-0296, do hereby certify that BRYAN CUTRIGHT personally appeared before me at the time and place mentioned in the caption herein; that the witness was by me first duly sworn on oath, and examined upon oral interrogatories propounded by counsel; that said examination, together with the testimony of said witness, was taken down by me in stenotype and thereafter reduced to typewriting; and that the foregoing excerpted transcript, Pages 1 to 8, both inclusive, constitutes a full, true and accurate record of said examination of and testimony given by said witness, and of all other proceedings had during the taking of said deposition, and of the whole thereof, to the best of my ability.

Witness my hand at Portland, Oregon, this 6th day of September, 2012.



Aleshia K. Macom

CSR No. 94-0296

Beovich Walter & Friend

Miller, Raquel

May 9, 2012

Page 1

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

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

No. 3:12-CV-71-SI

Plaintiff,

v.

COLUMBIA COUNTY; COLUMBIA
COUNTY SHERIFF'S OFFICE; JEFF
DICKERSON, individually and
in his capacity as Columbia
County Sheriff,

Defendants.

30(b)(6) VIDEOTAPED DEPOSITION OF RAQUEL MILLER

Taken in behalf of Plaintiff

May 9, 2012

Beovich Walter & Friend

Miller, Raquel

May 9, 2012

Page 90

Page 92

1 on. You know, this is going to your mom or
 2 whoever. Just cover it up.
 3 Q. This notice, Exhibit H to --
 4 A. **This is a new notice, too, by the way.**
 5 Q. That's what I was going to say. Before you had
 6 that notice, what did you use?
 7 A. **We had another form, but it wasn't as nice as**
 8 **this.**
 9 Q. Did it only have like four options on it?
 10 A. **Sounds familiar.**
 11 Q. Okay. Maybe kind of half a page?
 12 A. **Yeah.**
 13 Q. Okay. That was the --
 14 A. **But I, I would fill in the blanks and tell them,**
 15 **so thank you for clarifying. I meant in the**
 16 **whole duration of my being here. So you're**
 17 **talking about this particular notice, and I'm**
 18 **sorry I didn't catch that when I first answered**
 19 **it.**
 20 Q. Okay. So before this current mail notice which
 21 is new as of January or February of this year;
 22 right?
 23 A. **February.**
 24 Q. Okay. The previous one was this like half-page
 25 document which had maybe four different

1 Q. But it's been quite some time?
 2 A. **Yeah.**
 3 Q. So you typically do not receive letters coming
 4 into the jail now unless --
 5 A. **Typically not.**
 6 Q. -- unless they're legal mail; is that right?
 7 A. **Right.**
 8 MS. CHAMBERLAIN: For the record, we're just
 9 about out of tape.
 10 MR. WING: That's okay. I don't think we
 11 need the tape to finish this up.
 12 Q. BY MR. WING: You do not do not typically take
 13 stamps off of the mail that comes in; is that
 14 correct?
 15 A. **Uh-huh.**
 16 Q. Is that true?
 17 A. **Yes.**
 18 Q. Was there a time that you did take stamps off?
 19 A. **Yes. When it was envelopes.**
 20 Q. Why?
 21 A. **That was just how we did at the time.**
 22 Q. What were you instructed was the reason?
 23 A. **Could be something hidden underneath it.**
 24 Q. Wouldn't that be true on --
 25 A. **Yeah.**

Page 91

Page 93

1 things --
 2 A. **I believe so.**
 3 Q. -- to check off? And that's the only other one
 4 you've had since you've been here; right?
 5 A. **That's the only one I remember.**
 6 Q. Okay. Tonight you did not reject any mail based
 7 on the fact that it was not a postcard; is that
 8 right?
 9 A. **Right.**
 10 Q. Is that typical?
 11 A. **Yeah.**
 12 Q. And how long has that been typical?
 13 A. **That we haven't rejected it because it's not a**
 14 **postcard?**
 15 Q. Yes.
 16 A. **I guess I don't understand the question.**
 17 Q. Well, there was a time when you got more items
 18 that were, you had to reject them because they
 19 weren't on a postcard. At least when you had
 20 the policy, postcard-only policy was new; right?
 21 A. **Uh-huh.**
 22 Q. Is that true?
 23 A. **Right.**
 24 Q. Okay. How long did that transition period last?
 25 A. **I'm not a good judge of that.**

1 Q. -- postcards, too?
 2 A. **Yes.**
 3 Q. So what have you been told about why that
 4 process has changed and you no longer take the
 5 stamps off?
 6 A. **Nothing.**
 7 Q. And did that happen when you, did you no longer
 8 take the stamps off once they were just
 9 postcards?
 10 A. **Yes.**
 11 Q. When prisoners were allowed to receive
 12 letters --
 13 A. **Because, frankly, a lot of times they're getting**
 14 **photographs and we're not really going to cut**
 15 **off the corner of a photograph or we're not**
 16 **going to mangle it unless it looks like there**
 17 **may be a reason to.**
 18 Q. Before the postcard-only policy was in place,
 19 did you take the stamps off of both letters and
 20 postcards?
 21 A. **I believe it was just letters at the time, too.**
 22 Q. So the postcards could have stamps on them and
 23 you would not take them off when letters were
 24 allowed also, is that your recollection?
 25 A. **I don't really have a recollection of anything**

24 (Pages 90 to 93)

Beovich Walter & Friend

Miller, Raquel

May 9, 2012

Page 94	Page 96
<p>1 specific on that.</p> <p>2 Q. Do you recall being instructed that you no</p> <p>3 longer have to take stamps off of the mail?</p> <p>4 A. No.</p> <p>5 Q. Do you have a blank postcard that you use --</p> <p>6 A. Yes.</p> <p>7 Q. -- here?</p> <p>8 A. Uh-huh.</p> <p>9 Q. Do you have one that we could mark as an</p> <p>10 exhibit?</p> <p>11 A. Yes. Let me get you one.</p> <p>12 Q. Thank you.</p> <p>13 A. This is not typical. It normally doesn't have a</p> <p>14 label on it. Washington County messed up the</p> <p>15 order accidentally or we got their order and it</p> <p>16 has their address on it. So we've put ours over</p> <p>17 it. But we know where the labels came from, so</p> <p>18 we're going to give those out to the inmates.</p> <p>19 Q. Okay. Is it correct that we looked at some</p> <p>20 envelopes where the picture was bigger --</p> <p>21 A. Yes.</p> <p>22 Q. -- of the sheriff?</p> <p>23 A. Uh-huh.</p> <p>24 Q. Is that yes?</p> <p>25 A. Yes.</p>	<p>1 A. Golden Eagle.</p> <p>2 Q. Can you show me in Golden Eagle how that</p> <p>3 information is recorded?</p> <p>4 A. Well, we would write a report and I logged off</p> <p>5 already. So give me a second here. What do you</p> <p>6 mean by "contraband," by the way?</p> <p>7 Q. How do you use the term "contraband" here in the</p> <p>8 jail?</p> <p>9 A. Well, you asked the question. So that's what I</p> <p>10 was meaning by how am I to --</p> <p>11 Q. I would like you to use it in the ordinary sense</p> <p>12 that you use it here in the jail.</p> <p>13 A. Okay. So we are talking incoming or outgoing</p> <p>14 mail?</p> <p>15 Q. Let's start with incoming mail.</p> <p>16 A. Okay. So if it was contraband, you would have</p> <p>17 seen how I just did it with the prohibited mail</p> <p>18 notice, and that would be the only way.</p> <p>19 Q. So it would not be reflected --</p> <p>20 A. No.</p> <p>21 Q. -- in the Golden Eagle?</p> <p>22 A. No.</p> <p>23 Q. Is that correct?</p> <p>24 A. Yes.</p> <p>25 Q. And likewise there's not any central place that</p>
Page 95	Page 97
<p>1 Q. Okay. And otherwise this is a accurate</p> <p>2 portrayal of the postcards that the prisoners</p> <p>3 get to mail out?</p> <p>4 A. It's the exact same size, if that's what you</p> <p>5 mean. Yeah.</p> <p>6 Q. And there are lines on the back --</p> <p>7 A. Yes.</p> <p>8 Q. -- like there are on this one?</p> <p>9 A. Yes.</p> <p>10 Q. And there's a "to" area to write the, who's</p> <p>11 receiving the mail?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Let's mark that as Exhibit 4.</p> <p>14 (Exhibit 4 marked for identification.)</p> <p>15 Q. BY MR. WING: Our inspection notice includes a</p> <p>16 request to inspect any logbooks or other</p> <p>17 documentation used to record incoming or</p> <p>18 outgoing mail. You've shown us the Eagle,</p> <p>19 Golden Eagle system; right?</p> <p>20 A. Yes.</p> <p>21 Q. Is there any other logbooks that contain that</p> <p>22 type of information?</p> <p>23 A. No.</p> <p>24 Q. And is there any kind of logbook that identifies</p> <p>25 any contraband that is found?</p>	<p>1 would list the contraband that was identified</p> <p>2 from incoming mail; is that correct?</p> <p>3 A. Right.</p> <p>4 Q. Okay. Outgoing mail you're telling me --</p> <p>5 A. Unless it was a violation of the law.</p> <p>6 Q. And then?</p> <p>7 A. Then it would become evidence.</p> <p>8 Q. Okay. And then we'd go maybe to the prosecutor?</p> <p>9 A. Right. And that's kind of what I was going for.</p> <p>10 I was just going to show you where we put jail</p> <p>11 incident reports.</p> <p>12 Q. Okay.</p> <p>13 A. But we would have to write something up and it</p> <p>14 would be maybe, you know, Mr. Smith is writing</p> <p>15 his wife that he's not supposed to have contact</p> <p>16 with who's still in our facility. And so we'll</p> <p>17 write a report on that as well.</p> <p>18 Q. And the incident reports then might include</p> <p>19 contraband found in mail that would violate the</p> <p>20 law as opposed to just mail policy?</p> <p>21 A. There's just a different place to put that</p> <p>22 because we have to get case numbers and all</p> <p>23 that.</p> <p>24 Q. I understand. I'm just trying to clarify my</p> <p>25 understanding. So you would put it in Golden</p>

25 (Pages 94 to 97)

Beovich Walter & Friend

Miller, Raquel

May 9, 2012

Page 108

C E R T I F I C A T E

I, Aleshia K. Macom, CSR No. 94-0296, do hereby certify that RAQUEL MILLER personally appeared before me at the time and place mentioned in the caption herein; that the witness was by me first duly sworn on oath, and examined upon oral interrogatories propounded by counsel; that said examination, together with the testimony of said witness, was taken down by me in stenotype and thereafter reduced to typewriting; and that the foregoing transcript, Pages 1 to 107, both inclusive, constitutes a full, true and accurate record of said examination of and testimony given by said witness, and of all other proceedings had during the taking of said deposition, and of the whole thereof, to the best of my ability.

Witness my hand at Portland, Oregon, this 5th day of June, 2012.



Aleshia K. Macom

CSR No. 94-0296

Beovich Walter & Friend

From: "Bryan "
 Date: Monday, May 02, 2011 10:50 AM
 To: "Hanson, Sarah" <Sarah.Hanson@co.columbia.or.us>; "Zemaitis, Cynthia" <Cynthia.Zemaitis@co.columbia.or.us>
 Subject: Fwd: Searches and Postcards
 Sara and Cynthia,

[REDACTED – ATTORNEY-CLIENT COMMUNICATION]

***** EMBEDDED MESSAGE: *****

Date: 2011/04/29 9:34:19 AM
 From: Marie_Tyler@CO.WASHINGTON.OR.US
 To: OJMA@LISTSERV.CO.MARION.OR.US
 Subject: Searches and Postcards

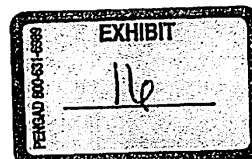
A couple of items that might impact several others out there, we thought we would share - use if you like!!

1. Elmer Dickens, our attorney, has given us some good language to reply to grievances about postcards (that are in an upsurge given the ACLU postcards that we delivered) that will serve to shore up our side if any suits are brought forward on the subject. He said I am free to share, in case any of you are preparing responses to your inmates on the topic.

Postcard Grievance Response Template:

Thank you for expressing your concern about the Washington County Jail mail procedures. As you are aware, there are multiple ways for inmates to communicate with friends, family and others outside the jail. You may send and receive postcards, as well as have personal visits and use the telephone. You are also allowed to communicate with your attorney, and correspond with other officials, by writing letters using paper and envelopes to ensure your privacy. Our postcard policy was enacted after a good deal of review, and we believe that the policy decreases the opportunity for contraband to be introduced into the jail, which enhances jail safety and security. In addition, the use of postcards saves significant public resources as staff do not need to spend nearly as much time searching for contraband or for communications that threaten jail safety and security. In light of the clear benefits to jail safety and security, the reduced staff time required to process inmate mail, and the alternative methods available to inmates to communicate with the outside, we believe that our policy of requiring postcards for personal mail is appropriate and reasonable. Your grievance is denied.

2. Below is information about a recent case in Arizona. We plan to adjust our search policy to include something along the lines of the bolded language below.



CC_001306

5/7/2012

Happy Friday - enjoy the weekend all.
Marie

From: Elmer Dickens
Byrd v. Maricopa County Sheriff's Dept.

In this case, a female cade conducted a search of a male inmate. The inmate was dressed only in thin pink boxers, and she used the back of her hand to check for contraband, including moving his penis and scrotum. The inmate sued, arguing that this non-emergency search was a strip search and was an unreasonable search under the fourth amendment. The 9th Circuit (en banc - all 28 judges) considered the issue, and found that although it wasn't really a strip search because he had some clothes on, it was way more than a pat or frisk search because the boxers were very thin and she manipulated his genitals. They held that the search violated the inmate's rights under the 4th Amendment. I think the only important thing out of this case is that a pat or frisk search, if done on a barely dressed inmate of the opposite sex, could violate the inmate's rights.

J-14-4 (4) provides that

a. A female deputy may frisk search a male inmate. (Note: This is based on controlling laws governing equal employment opportunities for female corrections deputies and male privacy rights under the Oregon Constitution, which prohibit unclothed searches by female deputies.)

Do you think it would be worthwhile to add a caveat - something like "A cross-gender frisk search may only be performed if the inmate is fully dressed. If the inmate is wearing only underwear, a deputy of the same sex must do the search" ???? elmer

CC_001307

5/7/2012

From: "Bryan "
Date: Friday, April 29, 2011 9:34 AM
To: <cutrightb@hotmail.com>
Subject: Fwd: Searches and Postcards (Work)

***** EMBEDDED MESSAGE: *****

Date: 2011/04/29 9:34:19 AM
From: Marie Tyler@CO.WASHINGTON.OR.US
To: OJMA@LISTSERV.CO.MARION.OR.US
Subject: Searches and Postcards

A couple of items that might impact several others out there, we thought we would share - use if you like!!

1. Elmer Dickens, our attorney, has given us some good language to reply to grievances about postcards (that are in an upsurge given the ACLU postcards that we delivered) that will serve to shore up our side if any suits are brought forward on the subject. He said I am free to share, in case any of you are preparing responses to your inmates on the topic.

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2. Below is information about a recent case in Arizona. We plan to adjust our search policy to include something along the lines of the bolded language below.

Happy Friday - enjoy the weekend all.
Marie

CC_001390

5/7/2012

From: Elmer Dickens
Byrd v. Maricopa County Sheriff's Dept.

In this case, a female cade conducted a search of a male inmate. The inmate was dressed only in thin pink boxers, and she used the back of her hand to check for contraband, including moving his penis and scrotum. The inmate sued, arguing that this non-emergency search was a strip search and was an unreasonable search under the fourth amendment. The 9th Circuit (en banc - all 28 judges) considered the issue, and found that although it wasn't really a strip search because he had some clothes on, it was way more than a pat or frisk search because the boxers were very thin and she manipulated his genitals. They held that the search violated the inmate's rights under the 4th Amendment. I think the only important thing out of this case is that a pat or frisk search, if done on a barely dressed inmate of the opposite sex, could violate the inmate's rights.

J-14-4 (4) provides that

a. A female deputy may frisk search a male inmate. (Note: This is based on controlling laws governing equal employment opportunities for female corrections deputies and male privacy rights under the Oregon Constitution, which prohibit unclothed searches by female deputies.)

Do you think it would be worthwhile to add a caveat - something like "A cross-gender frisk search may only be performed if the inmate is fully dressed. If the inmate is wearing only underwear, a deputy of the same sex must do the search" ???? elmer

CC_001391

5/7/2012

OREGON STATE SHERIFF'S ASSOCIATION

Oregon State Jail Command Council



**TRANSITION TO POSTCARDS
FOR INMATE MAIL**

Cmdr. Marie Tyler, WCSO
12-09-09

CC002303

Postcards for Inmate Mail Implementation Plan

Presented at OSSA December 9, 2009

Proposition

Limit incoming and outgoing inmate mail (with the exception of legal and official) to postcards **only**, to greatly increase efficiencies and safety by minimizing contraband.

Similar policies have been implemented elsewhere and have withstood court challenges. (AZ example)

Suggested Timeline

- December 2009:
 - Review, change and implement new mail policy
 - Solicit, review and choose postcard vendor
 - Educate the staff, inmates and public of the policy changes
 - Replace envelopes in our indigent and intake packs with postcards
- January 2nd, 2010:
 - Replace envelopes and writing paper with postcards in all indigent and intake packs
 - Replace stamped envelopes with postcards on commissary menu
- January – March 2010:
 - Continue education about new policy
 - Posting on website
 - Posting in the inmate living areas
 - Community news sources
- March 31st, 2010:
 - Inmates will only be permitted to send and receive postcards, legal or official mail, or mail that has been pre-approved by jail authorities.

Associated Costs

- Inmate mail materials are provided through commissary at cost to inmates with an ability to pay OR are provided through the indigent inmate fund (Inmate Welfare Fund) for inmates without resources.
- Commissary vendors may have an ability to substitute postage paid postcards for stamped envelopes and at a lower cost.
- Counties who choose to custom order postcards to sell through commissary are expected to pre-pay the cost of that printing.
- Washington County has volunteered to acquire and store the initial postcard order and sell at cost to other counties. Cost per postcard, both

CC002314

the 5.5" x 8.5" and the 4-1/4" x 6", is \$0.02. Counties are responsible for affixing postage stamps to the postcard; postage will cost \$0.44 per card. Washington County will contract with its commissary vendor to put postage stamps on the postcards for \$0.05 per card for a total cost of \$0.51 per postcard or \$5,100 for 10K postcards – more than most small jails might use in a year. By way of comparison, we sell stamped envelopes for \$0.60 per envelope.

Acquiring Supplies

To purchase postcards held at Washington County or to acquire vendor information if you elect to order independently –

Contact Timothy Ellsworth at 503.846.2390 or email, timothy_ellsworth@co.washington.or.us He will arrange to transfer post cards to your facility and may use the Oregon Sheriff's Transport Association to move them without cost; or ship them via USPS or another qualified shipper.

Communications Planning and Considerations

To facilitate migration to postcards only policy for incoming and outgoing inmate (social) mail, a CD is available with draft language changes. (Both Marion Co and Washington Co drafts) Bold items are also included, plus this plan.

Inmate rule manual language

Mail processing forms

Advising Inmates*

Adjust recorded phone messages as needed*

Adjust inmate mail guide publication

Modify public web site where applicable*

Public Information Release

Notifying Local Bar Association*

**These items are agency specific and not provided on the CD*

Questions?

Commander Marie Tyler, WCSO, 503.846.6366 marie_tyler@co.washington.or.us

12/03/09

CC002315

Origin: Exported on 2012/04/26 3:24:51 PM with GWAVA Reveal
From: "Jeff " <>
Subject: Fwd: Pass Down for September 16, 2011 (Forwarded Mail)
To: sheriff.dickerson@vzw.blackberry.net
Date: Fri, 16 Sep 2011 15:57:21 -0700
X-Priority: 3
X-Library: Indy 9.00.10

Forwarded Mail

***** EMBEDDED MESSAGE: *****

Date: 2011/09/16 3:57:13 PM
From: Derek.Hibbs@co.columbia.or.us
To: Department - Jail.Justice.Columbia County@co.columbia.or.us
Subject: Pass Down for September 16, 2011
Pass Down for
September 16, 2011

Total Population: 135
USM: 70
Booked in: 2
Released: 8
Booked and Released: 1

** ICE is running a Fugitive Operation this weekend and we have given them the go ahead for up to 25 beds for the weekend **

** One USM for transport to Mult County on Monday September 19, 2011, Deputy Magnusen has been notified.

** We are getting 10 USM inmates in on Wednesday September 21, 2011, Deputy Magnusen is aware of this and we will make sure that a Day Shift Deputy is available as a second for this transport.

** We are in need of additional outside workers, if anyone has any recommendation please pass them on to the Supervisors.

** Please find the time to conduct routine Shakedowns over the weekend.

** Schwirse and Harlin classified and moved to I Pod.

** Deherrera, Anthony moved to lock-down in AL2, due to refusal to move as directed. See Deputy McDowall's report.

** We have a trial scheduled for inmate Hendrix from Tuesday September 20 - Thursday September 22, 2011. Deputy McDowall will be handling the trial so please help to make sure that the shifts are covered.

** Please remove the staples from the Prison Legal News papers and hand them out.

CC 001398

** Dawson has been seen by medical and the nurse will be here over the weekend so if there are any other problems. Please make sure that if he has problems we need to make sure he sees the nurse while she is at the jail.

Deputy Derek Hibbs
Columbia County Sheriff's Office
901 Port Ave
St Helens, OR 97051
derek.hibbs@co.columbia.or.us
(503)366-4699
fax (503)366-4631

CC 001399

Date : 03/26/2012

Page : 1

JAIL INCIDENT
COLUMBIA COUNTY SHERIFF'S OFFICE

INCIDENT NO. : 2012000078	INCIDENT DATE/TIME : 01/23/2012 - 22:30	SPOKE WITH SEVERAL INMATES ABOUT
JAIL INCIDENT - FACTS OF INCIDENT CONTINUATION		
<p>Vandolah, Alisha Shaft, Barry Temple, William Adams, Steven Bertasso, Toni Clement, Robert Deherrea, Anthony Haynes, Kenna Oester, Samuel Williams, Shaughnessy Lupis, Victor</p>		

EXHIBIT
124

CC 000638

Date : 03/26/2012

Page : 2

JAIL INCIDENT REPORT

COLUMBIA COUNTY SHERIFF'S OFFICE

2012000078

INCIDENT DATE 01/23/2012	TIME : 22:30	DESC.SPOKE WITH SEVERAL INMATES ABOUT RECEIVING THEIR PDN																											
WHERE DID INCIDENT OCCUR? :COLUMBIA COUNTY JAIL																													
CAUSE OF INCIDENT :																													
EVIDENCE COLLECTED :																													
FACTS OF INCIDENT <p>On 01/23/12, at approximately 2230 hrs, I asked several inmates about weather or not they received the Prison Daily News. All of the inmates I spoke with said that they were receiving their PDN. Inmate Adams, Steven said, "I get my copy every month just like clock work." While speaking with Inmate Adams, Inmates Bennett and Mejia joined the conversation. I asked all three inmates if they believed the rest of the population were getting their copies as consistently as Inmate Adams. All three inmates agreed that they had not heard of any inmates in the Columbia County Jail ever having any issues receiving their copy of the Prison Daily News. TW 50583</p> <p>The following inmates stated he/she receives the Prison Daily News:</p> <p>Butts, Daniel - per the rest of the inmates in B-SPCL Lavelle, Scott Vandolah, Alisha Shaft, Barry Temple, William Adams, Steven Bertasso, Toni Clement, Robert Deherrea, Anthony Haynes, Kenna Oester, Samuel Williams, Shaughnessy Lupis, Victor</p>																													
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X OPERATIONS MANAGER'S SIGNATURE	DATE																												

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Date : 03/26/2012

Page : 3

JAIL INCIDENT REPORT

COLUMBIA COUNTY SHERIFF'S OFFICE

2012000078

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X OPERATIONS MANAGER'S SIGNATURE	DATE	DATE																		

CC 000637

WASHINGTON COUNTY SHERIFF'S OFFICE

JAIL POLICY J-12-1

October 22, 2010

Pat Garrett, Sheriff

Affirmed: December 1, 2011

Inmate Communication

INMATE MAIL

POLICY

Jail mail handling procedures must support the inmate's need to communicate in writing to carry out legal business and maintain family and community ties. The procedures must also meet the jail's need for efficient operations that preserve the good order, safety, and security of the facility, inmates, and staff.

DEFINITIONS

Contraband. 1) Controlled substances as defined in ORS 475.005. 2) Drug paraphernalia as defined by ORS 475.525. 3) Any currency possessed by or under the control of an inmate confined in a correctional facility, except for an authorized amount for an inmate at the Community Corrections Center. 4) Any item that a person in a correctional facility is prohibited by statute, rule, or order from obtaining or possessing; and whose use would endanger the safety or security of the facility or person within. 5) An unauthorized item in an inmate's possession or in a cell, bunk, or common area. 6) An authorized item altered in any way. 7) More than the authorized number of an item.

Indigent. A financial condition when an inmate has less than \$5 in his or her inmate account and has not had more than that amount for seven days.

Inflammatory material. Writings or other printed materials that pose a threat to the security, safety, or good order of the jail because it may incite or advocate physical violence against others. This includes material that advocates the supremacy or hatred of a racial, religious, national, or other group of people. (Note: Criticism of jail operations, programs, or staff, on its own, is not inflammatory material. If the criticism involves an illegal act or violates a jail rule, staff will handle it as that type of prohibited mail.)

Junk mail. Printed materials, often sent as mass mailings, such as catalogs, advertisements, brochures, circulars, and pamphlets whose primary purpose is to sell, promote or solicit for, a product or service, and when taken as a whole, lacks serious literary, artistic, political, educational, religious, or scientific value. Junk mail may come using a variety of postage rates.

Legal mail. Incoming or outgoing mail addressed to or from a licensed attorney and is clearly marked "legal mail" on the address side of the envelope.

Supersedes: J-12-1 (January 4, 2010)

Position responsible for updates: Jail Administrative Lieutenant

OIS: D1-A01, D1-A02, D1-A03, D1-A04, D1-A05, D1-A06, D1-A07, D1-A08, D1-A09, D1-A10, D1-B01, D1-B02, D1-C01, D1-C02, D1-C03, D1-C04

1 of 19



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October 22, 2010

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Mail handler. A staff member who picks up, transports, sorts, delivers, inspects, reads, or performs other duties related to processing inmate mail.

Negotiable instrument. A written document that represents an unconditional promise to pay a specified amount of money upon the demand of its owner. Examples include checks and promissory notes. Negotiable instruments can be transferred from one person to another, as when a person writes "pay to the order of" on the back of a check in order to turn it over to someone else.

Official mail. Incoming or outgoing mail addressed to or from the sheriff, jail command staff, county administrator, probation authorities, district attorney, state attorney general, Governor, court, a court official, and other confining authorities that is clearly marked "official mail" on the address side of the envelope.

Periodical. A magazine, newspaper, or other publication formed of printed sheets that are issued at least four times a year at regular, specified intervals from a known office of publication. Periodicals usually must have a legitimate list of subscribers and requesters.

Personal mail. Postcards mailed to or from family, friends, organizations, businesses, or other unofficial entities.

Sexually explicit. 1) A pictorial depiction of any of the following: actual or simulated sexual acts (including sexual intercourse, oral sex, anal sex, or masturbation); sexual penetration; bestiality; sexual violence; sadomasochism; excretory functions; and exposed genitalia, buttocks, or female breasts, unless the exposure is for legitimate medical, religious, or anthropological reasons. 2) A written or pictorial depiction of lewdness, licentiousness, or graphic erotic behavior designed to cause sexual excitement (pornography). 3) Sex acts involving children. 4) Materials that violate state and local obscenity laws. (Note: Whether the material is commercially produced or is personally made or written has no bearing on this definition.)

Two-party check. A check that the payee endorses so that another person may cash it.

PROCEDURES

INMATE MAIL OVERVIEW

1. Mail Limits and Restrictions

Staff will normally not limit, censor, or restrict the volume, language, content, or source of mail or publications.

a. General reasons for limiting or restricting mail are:

- (1) There is reason to believe that such correspondence would jeopardize personal safety, jail security or good order, or inmate treatment or would facilitate violation of the law.

October 22, 2010

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- (2) There is reason to believe that a sentenced inmate in rehabilitative programs would benefit from a limit with whom he or she has contact or the publications he or she receives.
- (3) The volume of mail would place an unreasonable burden on mail handlers.
- b. Specific reasons and examples for limiting, restricting, and prohibiting mail, which fall under each general reason category, are in Appendix 1, Prohibited Mail.
- c. Inmates may receive a disciplinary sanction that restricts personal mail. (See policy J-7-6, *Rules and Discipline*.)
2. Sources of Incoming Mail
Jail staff will only accept written correspondence, notes, parcels, or documents for inmates that have been delivered by the U.S. Postal Service and distributed by Washington County Central Services.
3. Postcards for Personal or Personal Business Mail
Inmates may send postcards they receive in their lodging pack or through jail commissary. Inmates may receive postcards in any size that is delivered by the U.S. Postal Service up to a maximum size of 5-1/2" tall x 8-1/2" wide. The jail does not permit any other form of personal mail for inmates. Inmates are not limited to a specific number of postcards that they may receive or send. Lodged inmates receive an initial supply of postcards in their lodging pack, and may purchase additional postcards through jail commissary. Policy J-7-6, Discipline, sets limits on the number of personal mail items allowed in an inmate's cell. Provisions for legal and official mail begin at paragraph 10, below.
4. Exception to Postcards for Inmates Within 30 Days of Completing Sentence
The Programs Manager may allow an inmate who is continuously involved in rehabilitation programs permission to correspond with a specific person (both sending and receiving). The Program Manager must document that corresponding with the person is in the best interest of an inmate's rehabilitation. A suitable example might include a letter sent to reconnect with family prior to release.
5. Photographs on Postcards
Inmates may receive postcards with photographs on one side as allowed by the U.S. Postal Service and jail rules. No other photographs are allowed.
6. Indigent Inmate Mail
Indigent inmates may use their weekly indigent allowance to purchase an indigent writing pack for mail through jail commissary. The pack will consist of two postage prepaid postcards, a pencil, and an eraser. Indigent inmates must submit an Inmate Request form to obtain legal or official mail supplies; the legal or official mail will not count as part of the inmate's weekly allowance.

3 of 19

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J-12-1J-12-1

October 22, 2010

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7. Addressing Inmate Mail

Incoming mail must have the inmate's booking name and should have the inmate's booking number as part of the addressee information.

8. Return Address

Incoming mail must have the name and address of the sender. The return address on legal and official mail must have the sender's job, agency, or firm title and address commercially preprinted or stamped.

- a. If the inmate is in custody, a mail handler will confiscate any mail without a return name and address. He or she will open it to both identify a sender's name and to see if it contains negotiable instruments or other items that need to be listed on the confiscation notice. This procedure also applies when mail is "refused" and returned to the jail.
- b. If the inmate is no longer in custody, the mail handler will open the mail to check for negotiable instruments, stamps, official documents, or similar items of monetary or official value.

(1) If there are no valuables, the mail handler will throw the mail away. WHY WE WOULD NOT PUT IT IN THE INMATE'S PROPERTY?

(2) If the mail contains valuables, the mail handler will take steps to identify the sender and return the mail to the sender. If a sender's name and address is not found, the mail handler will send the mail to the inmate's last known address. A mail handler will destroy any mail, along with its valuables, that is returned to the jail after sending it to the original sender or former inmate.

9. Postage-Due Mail

The jail will not accept or pay for any inmate mail with postage due. The jail administrative sergeant will work with the staff of Central Services to have them refuse postage-due mail.

10. Junk Mail

Jail staff will not accept solicited or unsolicited junk mail or bulk mail for inmates, unless it violates other mail restrictions (such as containing sexually explicit content). A mail handler will mark junk mail as "Refused" if it has a U.S. Postal Service sender's endorsement, such as "Address Service Requested" or "Return Service Requested," and return it to the post office. A mail handler will throw junk mail away if there is no endorsement. If an inmate wants to receive a certain piece of junk mail, such as a retail catalog, he or she must complete an inmate request form describing the item requested and the expected time period for delivery. The primary mail handler will maintain a record of inmates who have requested to receive junk mail in this manner. In most cases, junk mail received in an envelope will not be accepted without specific permission.

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11. Personal Business Mail Needing Special Handling

A jail sergeant or the programs director may approve mail that needs special handling so an inmate can conduct personal business. For example, the use of a business reply envelope to

October 22, 2010

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send a document back to the originating firm or signing a mailed-in personal check to make a rent or car payment or renew a driver's license. Such a check must not have a blank payee line. The inmate must act to add a cosigner to a checking account or make other arrangements to prevent reoccurrence of this need. Supporting documents, such as payment coupons or rent contracts, must accompany any personal business mail.

5 of 19

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October 22, 2010

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LEGAL AND OFFICIAL MAIL

12. Legal and Official Mail

Jail staff must protect the rights of inmates to privileged, confidential communication with their attorneys, the courts, and confining authorities.

- a. The sender is responsible for legitimately, properly, and clearly marking and addressing legal and official mail so that jail staff recognize it and treat it as confidential.
 - (1) The return address on all incoming legal and official mail must have the sender's job, agency, or firm title and address either commercially preprinted on the envelope or a label, or as an ink stamp. The sender's name should be handwritten if not preprinted. Staff will treat all mail with return addresses that are completely handwritten as personal mail.
 - (2) The words "Legal Mail," "Official Mail," or similar designation must appear on the address side of the envelope. Jail staff will not assume the contents of any letter from an attorney, law firm, or government official is legal or official mail.
 - (3) Jail staff will treat improperly marked or addressed mail as personal mail.
- b. Staff must not open recognized legal or official mail outside the presence of the inmate. They may open it in the presence of the inmate to inspect it for contraband, but they must not read its contents.
- c. A staff member must write a Jail Incident Report if he or she inadvertently opens a piece of recognizable legal or official mail outside the presence of the inmate.
- d. Before the letter leaves the pod, pod deputies must verify that any letter marked as legal or official mail is addressed to a person that qualifies for that privacy protection. Pod deputies will contact a shift sergeant if they suspect fraud.
- e. Jail staff will pursue administrative, criminal, and disciplinary actions, as fitting, against all those involved in the fraudulent use of legal or official mail designations.

13. Contents of Envelopes and Parcels (Legal and Official Mail Only)

An envelope may only contain written correspondence that meets the definition of legal or official mail. A parcel may only contain up to three books or three periodicals. Mail handlers will consider any other item in the envelope or parcel as contraband and treat it as prohibited mail.

14. Pre-Stamped Envelopes

Jail staff will make pre-stamped First Class business size or manila envelopes available for inmates to buy from the commissary for legal or official mail. Indigent inmates may obtain pre-stamped envelopes for legal or official mail per paragraph 6. Misrepresentation of legal or official mail is strictly prohibited and may result in disciplinary action against the inmate

October 22, 2010

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sender. An inmate may ask to mail an oversize or overweight envelope using special postal services procedures listed below.

15. Certified Mail Limits for Legal or Official Mail

An inmate may send up to two letters as certified legal or official mail in a 30-day period. The inmate must have sufficient funds in his or her account to pay for the service. The jail administrative sergeant or a command officer may make exceptions to the volume of certified mail an inmate sends and may approve credit to allow an indigent inmate to send certified legal or official mail.

16. Requests for Certified Mail

An inmate that needs to send a letter using certified mail must fill out a Request for Certified Mail form (WCJ-119). Only a pod sergeant or a programs director can approve this request and it must be for the purpose of mailing legal, official, or materials related to an inmate's rehabilitation program that have been screened and approved by the programs director. The pod sergeant or programs director will ensure that the inmate's correspondence is ready to mail at the time of the request. If an inmate's request is approved, the pod sergeant or programs director will forward the request to Jail Administration.

- a. Jail administrative staff will verify if the inmate has sufficient funds in his or account before processing any request. They will forward requests from indigent inmates to the jail administrative sergeant or corporal. Jail administration staff will fill out the necessary U.S. Postal Service forms—Receipt for Certified Mail (PS Form 3800) and Domestic Return Receipt (PS Form 3811). They will give the letter and the forms to jail accounting staff; accounting staff will mail the letter and charge the inmate for the postal fees for these special services. The request form (WCJ-119) will be the source document authorizing the charge.
- b. Staff will pass the receipt on to the inmate when it returns in incoming mail. They will return the Domestic Return Receipt postcard to the post office if the inmate is no longer in jail or at the CCC.

17. Other Special Postal Services

An inmate will use an Inmate Request form (WCJ-12) to request permission to mail oversize or overweight items or for other special postal services. If a jail sergeant or command officer approves such a request, jail administration staff will coordinate with jail accounting staff to mail the item and charge the inmate the postal fees.

PUBLICATIONS

18. Publications

An inmate must have someone outside the jail prepay for any publication he or she receives. An inmate may not engage in any delayed payment or credit ordering of publications while inside the jail.

7 of 19

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October 22, 2010

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19. Books

An inmate may receive up to three books on a single mail delivery day. Books must come directly from the publisher, a book club, or a bookstore. Books may be new or used. They may not be larger than 9 inches by 12 inches. They may not have plastic or metal bindings. Either hardback or paperback books are acceptable for general population inmates. Inmates in segregation, including medical segregation, may only receive paperback books from recognized sources. Mail handlers will consider any other item in the envelope or parcel as contraband and treat it as prohibited mail.

20. Periodicals

An inmate may receive up to two periodicals on a single mail delivery day. Periodicals must be new and be delivered directly from the publisher or a bookstore.

Prohibited publications, books or periodicals.

The jail must determine whether a specific publication, book or periodical violates jail rules. This determination must be made on an issue-by-issue basis, and it is unacceptable to put a blanket prohibition on all issues of a certain publication or periodical. If an issue of a publication, book or periodical is determined to violate jail rules, it should be returned to the sender and notification to the sender and the inmate should be made pursuant to paragraph 32.

MONEY-BY-MAIL**21. Cashier's Check and Money Order Limits**

Jail staff will only accept, with limits, cashier checks, money orders, and government checks, payable only to the inmate, for credit to an inmate's account. Staff will call the issuer to verify the amount if they suspect forgery or the inmate or sender has a history of forgery. All checks and money orders must be signed properly. Acceptable sources and amount limits are the following:

- a. For money orders from merchants: \$20 per sender per day.
- b. For cashier checks or money orders from banks or the USPS: \$100 per sender per day.
- c. For government checks: No limit, but the check is subject to verification that the inmate is eligible to receive it. (Jail accounting staff will do the verifying.)

22. Processing Money

The primary mail handler will open all incoming mail and remove any cash and negotiable instruments. If written correspondence of a personal nature is also enclosed, it will be handled as a prohibited item. WHY?

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- a. For cash and acceptable negotiable instruments within limit—

- (1) The primary mail handler will—

- (a) Fill out a Money-by-Mail Receipt (WCJ-30) for the total received for deposit to each inmate's account.

October 22, 2010

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- (b) Place all money orders and checks in one Cash Envelope (WCJ-196). List the money order or check number and amount on the outside of the envelope. Total the amounts of all enclosed items.
 - (c) Check to see if any bill of \$10 or more is counterfeit.
 - (d) Place all currency in a separate Cash Envelope. Account for the denominations on the face of the envelope. Total the amounts of all enclosed items.
 - (e) Take both Cash Envelopes to the intake area and drop them in the safe.
 - (f) Distribute the Money-by-Mail Receipts: yellow copy to the property room; white copy to the booking file, and pink copy to the inmate.
- (2) Property room staff will credit the inmate's account with the amount listed on the Money-by-Mail Receipt and send the inmate a copy of the credit receipt. (The inmate does not have to sign the credit receipt. The clerk should write "mailed in" on the signature line.)
- b. The primary mail handler will return negotiable instruments to the sender that exceed limits, are from unacceptable sources, or are otherwise unauthorized, such as payroll, personal, or two-party checks. To return the instrument, the mail handler will—
- (1) Send a Returned Mail form letter (WCJ-133-FL) to the sender along with the instrument being returned. Note on the letter the amount, number, and issuing institution of the check. Note the payee's name if it was not the inmate.
 - (2) Include a copy of the Inmate Mail Guide (WCJ-128) in the letter returning the instrument.
- Send the inmate a copy of the form letter and keep a mail file copy for reference.

REGULATING INMATE MAIL

23. Restrictions on Outgoing Mail Recipients

~~A jail command officer may prohibit an inmate from sending unwanted mail to a specific person or address at the request of the person. In the case of a minor, the parent or legal guardian may make the request. Inmates who are prohibited from sending mail to a specific recipient pursuant to a valid court order will not be allowed to send mail to that recipient and may be disciplined for attempting to do so.~~

24. Regulating Inmate Mail Written in a Foreign Language

Incoming mail written in a language other than English must be interpreted prior to delivery. The interpreter of inmate mail may be a designee from the Sheriff's Office or other law enforcement agency.

~~If, after translation, there are reasonable grounds to believe that the is a possibility the foreign language contents of any mail could pose a risk to facility, community, or national security, it will not be delivered. The mail handler will confiscate and place outgoing mail in~~

Comment (c1): Inmate who is prohibited from sending mail to a specific person or address at the request of the person. In the case of a minor, the parent or legal guardian may make the request. Inmates who are prohibited from sending mail to a specific recipient pursuant to a valid court order will not be allowed to send mail to that recipient and may be disciplined for attempting to do so.

Comment (c2): A possibility of a risk to facility, community, or national security means a decision to restrict the mail.

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October 22, 2010

the inmate's property storage, and will return *incoming* mail to the sender, in each case giving notice to the inmate or sender per paragraph 32 below.

25. Correspondence with Victims

Inmates may not correspond with a victim of a crime for which they are currently in custody in either pretrial or sentenced status. A jail command officer may make exceptions.

26. Mail with Health Care Appointment Information

To ensure transport security, a mail handler will confiscate any mail with information about upcoming health care appointments, and notify the inmate and sender of the confiscation. The mail handler should inform health care staff of the letter.

27. Gang-Related and Security Threat Group Materials in Mail

A mail handler will photocopy incoming or outgoing mail with gang-related or security threat group material and send the copy to the Security Threat Group (STG) team. The mail handler will confiscate the mail as a prohibited item, and notify the sender per paragraph 32. A jail STG team member will act according to procedures in policy J-14-13, *Security Threat Groups*.

~~28. Correspondence Courses~~

~~An inmate may not receive correspondence course material without a jail command officer's approval.~~

~~29-28. Operating Commercial Business and Nonprofit Organization Mail~~

~~An inmate may not operate a business or nonprofit organization from the jail by mail.~~

~~30-29. Commercial Business Transactions and Government Services by Mail~~

~~An inmate may not conduct commercial business transactions by mail or request services from a government agency without the approval of a jail command officer or in the case of student loans, the jail programs manager or program educators. Examples of transactions and requests include:~~

- ~~a. Buying or selling an item, real property, or service~~
- ~~b. Applying for a credit card~~
- ~~c. Applying for a commercial or student loan~~
- ~~d. Opening a bank account~~
- ~~e. Enrolling in a college course~~
- ~~f. Applying for food stamps~~
- ~~g. Any obligation of funds to which the inmate does not have access~~

~~31-30. Mail Monitoring~~

~~Absent a court order, a jail command officer will only approve a request to monitor a specific inmate's mail because there is reasonable belief that there is a legitimate penological or public safety reason to do so, including but not limited to the welfare and safety of the inmates or staff, good order or security of the facility, to protect property, to prevent the commission of~~

10 of 19

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October 22, 2010

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additional crimes or conspiracy to commit a crime, to thwart attempts to destroy or tamper with evidence of crimes or to harass or intimidate witnesses. The requester from outside the jail must complete a Request for Inmate Mail Monitoring (WCJ-194). An approved request will expire 30 days after its approval date. The requester must submit a new request to continue monitoring. Jail staff will read the inmate's mail and decide if any of it applies to the request and will only forward copies of mail that does apply. The requester must pick up the copies in person if from an agency within Washington County. The senior administrative assistant in Jail Administration will coordinate the mail monitoring program.

32-31. Confiscating Prohibited Mail

Normally, mail handlers confiscate prohibited items. The sender of confiscated mail must be notified pursuant to paragraph 32. Staff may return prohibited mail to a sender if it is in the best interest of the jail not to store it, such as perishables.

- a. Mail handlers will confiscate postcards, letters, cards, and publications in whole rather than removing or obliterating individual pages, passages, or words with prohibited content. They will confiscate items that exceed a number limit as an entire set rather than passing on a selection that would meet the maximum number allowed.
- b. If personal correspondence accompanies money sent by mail, the mail handlers will deposit the money into the inmate's account and the correspondence will be confiscated. WHY are we confiscating the correspondence? What is our rationale? Notification to the sender must be sent pursuant to paragraph 32.
- c. Mail handlers will use a Property Transfer and Confiscation form (WCJ-32) to inform the inmate of the confiscation and use a copy as a tag for the items. They will place confiscated items in the inmate's property storage, unless it is evidence in a jail disciplinary action or a crime. They will handle evidence according to the applicable policy: *J-7-6, Rules and Discipline* or *J-14-16, Criminal Acts and Investigation*. Staff will not notify the inmate or sender if they confiscate items that are part of a criminal investigation.
- d. Mail handlers must notify the sender in writing that mail they sent was confiscated or not delivered to the inmate, unless the inmate is no longer in custody. They should use a Confiscated Mail Notice postcard (WCJ-129) for the notification. Any notice will give the reason and explain how the sender can informally appeal the action.
- e. A mail handler may destroy any item in mail that presents a health or safety risk if it were to be stored in the jail or returned to sender, and notify the sender by sending a Confiscated Mail Notice.

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PROCESSING INCOMING MAIL

32-32. Initial Processing of Incoming Mail

The primary mail handler will process incoming mail for inmates in the following manner:

11 of 19

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October 22, 2010

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- a. Return mail to the sender (unopened if possible) or the USPS if any of the following apply:
 - (1) Incoming mail that is not a standard postcard, except legal or official mail
 - (2) The addressee cannot be identified because of missing or incomplete information
 - (3) Prohibited items are affixed to the mail
 - (4) Foreign substances or stains are on the mail
 - (5) Odors, including perfume, are coming from the mail
 - (6) The mail is from an inmate in another correctional facility
 - (7) The mail is from an inmate on electronic home detention
 - (8) It can otherwise be identified as being or containing prohibited mail before it is opened
- b. Handle mail without a return name and address according to paragraph 8.
- c. Look up the inmate's name on an Alpha List Sorted by Name report and write the inmate's pod number or "CCC" on the mail. Return mail to the sender if the inmate is not in jail or at the CCC.
- d. Separate legal and official mail from personal mail.
- e. Open and inspect the contents of personal mail for contraband items and money.
 - (1) Remove and process money for deposit to an inmate's account according to paragraph 22.
 - (2) Confiscate any prohibited item. Correspondence enclosed in a money-by-mail envelope is a prohibited item.
 - (3) Have a jail sergeant or jail command officer look at personal business mail that may need approval for special handling. If approved, provide handling instructions to the pod deputy.
- f. Remove books from their mailing parcel and place them in a ziplock bag with the original mailing label.
- g. Place mail in a foreign language in the "translation required" box. Take steps to locate a staff member who speaks that language. If mail cannot be translated within a reasonable time, the mail handler will forward the mail to a command officer.
- h. Sort mail by pod and place in the pod mail bins in intake before 2130 hours (9:30 p.m.).
- i. Place mail to return to the post office in the Central Services pickup box.
- j. Place mail for CCC inmates in the CCC mail basket.

34-33. Pod Processing of Incoming Mail

Grave shift pod deputies will pick up the mail for their pods when coming on duty. They, or other staff if appropriate, will process the inmate mail for their pods as follows:

October 22, 2010

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- a. Scan all personal postcards and publications for prohibited content. Read in-depth only if there is a legitimate jail interest.
- b. Remove postage stamps, flap-sealing tape, and gummed and adhesive address labels. (Remove labels only on personal mail—leave labels on legal and official mail).
- c. Remove subscription-ordering postcards from magazines.
- d. Open recognizable legal and official mail in front of the inmate and inspect it only for contraband—not content. (Deputies, or other staff, must not read the contents.)
- e. Deliver the mail within eight hours of receipt. Passing mail under an inmate's door and placing books by the door is acceptable.
- f. Have the inmate write his or her name and booking number on the inside flap of books. For magazines without mailing labels directly attached, have the inmate write his or her name and booking number on the cover. Newspapers do not need marking.

35-34. Mail as Nuisance Contraband

Inmates are responsible for getting rid of any mailed item that puts them over the limits of allowed for nuisance contraband under policy J-7-6, *Rules and Discipline*. An inmate may transfer items to their bin in the property room using procedures in policy J-6-14, *Property Transfer*. Property room staff will follow procedures in policy J-6-29, *Inmate Property Control*, if the volume of mail an inmate transfers to his or her property bin exceeds the remaining storage capacity of the bin.

OUTGOING MAIL**36-35. General Mail Rules for Inmates**

Inmates—

- a. May only use lead or colored pencils to write correspondence.
- b. May only use postcards sold through the commissary or issued by the jail.
- c. Must send legal, official or approved letters, notes, or other written materials using the USPS or other approved system.
- d. Must put their first and last name, booking number, and the jail address as the return address.
- e. May not draw or write anything on the outside of an envelope other than name and address information and "legal" or "official" mail designations.
- f. May not send out jail forms for others to fill out on behalf of the inmate.
- g. May not send mail to another inmate at a correctional facility or one on electronic home detention.
- h. May not send prohibited mail. They are subject to disciplinary action for doing so.
- i. Should pass on prohibited mail rules to people and businesses with whom they correspond.

13 of 19

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October 22, 2010

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37-36. Inspection of Outgoing Envelopes

Before legal or official mail leaves the pod, pod deputies will verify the contents are legal or official mail before sealing the envelope. The inspecting deputy will initial and write their DPSST number on the flap to show this verification. *As appropriate*, the deputy will return it to the inmate, confiscate it as evidence in disciplinary proceedings, or contact a jail sergeant or jail command officer if—

- a. The return name, booking number, and address are incomplete or false.
- b. There is drawing or non-address-related writing on the envelope.
- c. There is prohibited material on the envelope.
- d. Addressee information is missing that could cause the letter to be undeliverable and returned to the jail.
- e. It is a manila envelope whose addressee does not meet the criteria for being legal or official mail or being a program-related certificate or diploma.
- f. They believe the envelope should be opened for a legitimate reason.

38-37. Opening and Inspecting Contents of Outgoing Mail

Mail handling staff will not read outgoing legal or official mail unless they have the approval of a sergeant or command officer.

- a. A jail sergeant or jail command officer may have staff read outgoing mail at any time and for any reason, except for legal or official mail. This authorization may be by housing area, class of inmate, individual inmate, or other basis. It may also be on an ongoing or a random basis and for any length of time. However, a jail command officer must approve any ongoing monitoring of a specific inmate, as previously noted.
- b. Mail handlers will notify a jail sergeant or jail command officer if—
 - (1) They suspect outgoing mail contains contraband.
 - (2) It may present a safety or security issue based on the addressee.
 - (3) They have reasonable suspicion the mail may contain other contents of legitimate jail interest.

39-38. Posting Outgoing Mail

Inmates will place outgoing mail in the mail bin for the pod. Jail staff will return the mail bin to the intake area when they go off duty. The primary mail handler will pick up outgoing mail from the intake area each normal business day. He or she will place the mail in a Central Services pickup box before the regularly scheduled afternoon pickup on that same day.

40-39. Mail Delivery

Staff should deliver mail to inmates within 24 hours of receipt at the jail. Reasonable exceptions are allowed when special processing is required, such as for mail delivered late in the day, needing translation, or items held as evidence in a criminal or disciplinary investigation, etc.

October 22, 2010

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ADMINISTRATIVE ISSUES

41-40. Mail Rules

The administrative lieutenant will ensure mail rules are a part of inmate orientation and the *Inmate Manual*. The lieutenant will make copies of the Inmate Mail Guide available to the public. Civilian staff members who discover apparent misconduct as a result of reading inmate mail will report it via the chain of command.

42-41. Mail Complaints

Staff members will direct mail complaints from the public to a jail command officer. The officer should attempt to respond to the complainant within two business days. Inmates will use the inmate grievance process to lodge complaints or ask for the return of confiscated items.

43-42. Mail Handler Supervision and Training

The administrative lieutenant will supervise the day-to-day handling of inmate mail. He or she will assign staff to perform primary inmate mail duties. Staff who initially handle or open incoming inmate mail should attend Central Services training on the safe handling of strange or suspicious packages or receive similar training from another source. Those who open mail should also receive training on recognizing gang and security threat group symbols and signs.

44-43. Change of Address Responsibilities and Forwarding Mail

Inmates are responsible for submitting change of address requests to the publishers of the periodicals they receive and to others that send them mail at the jail. Mail handlers will normally not forward mail for inmates who are no longer in jail custody. They will return correspondence and packages unopened to the sender and throw periodicals away.

45-44. Holding Mail

Mail handlers will normally not hold mail for inmates released or temporarily transferred to another facility. A jail command officer may make exceptions.

46-45. Mail for Inmates at the Community Corrections Center (CCC)

Inmates in the sheriff's custody at the Community Corrections Center (CCC) are subject to the same mail privileges, rules and restrictions as inmates lodged in the county jail. A mail handler will send postcards, periodicals, allowed books and legal or official mail over to the inmate by placing them in the CCC mail basket in Jail Administration. The mail handler will contact a jail sergeant or jail command officer if he or she finds criminal contraband or questionable material. For other contraband, the mail handler will return it to the sender or confiscate it and send it to a CCC supervisor. The mail handler will note the name of the CCC supervisor on the Property Transfer and Confiscation form (WCJ-32).

47-46. Returning Mail to Sender

To return postcards, a mail handler will use a sticker or stamp marked "return to sender," note the reason for refusal on the stamp, obliterate any mail-sorting bar code, and return it to the

15 of 19

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October 22, 2010

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post office. To return unopened mail (other than postcards), a mail handler will use the "return to sender" stamp in place of the sticker.

To return mail that was opened, a mail handler must repackage it and send it at the expense of the jail to the sender. The mail handler will include a copy of the Returned Mail form letter (WCJ-133-FL) and the Inmate Mail Guide (WCJ-128) if he or she repackages the mail.

Mail handlers will use a Property Transfer and Confiscation form (WCJ-32) to inform the inmate when mail is returned to sender.

FORMS USED

- Cash Envelope (WCJ-196)
- Confiscated Mail Notice (WCJ-129)
- Domestic Return Receipt (PS Form 3811)
- Gang Activity Report (Interagency Gang Team)
- Inmate Mail Guide (WCJ-128)
- Inmate Request (WCJ-12)
- Jail Incident Report (CMS)
- Money-by-Mail Receipt (WCJ-30)
- Property Transfer and Confiscation (WCJ-32)
- Receipt for Certified Mail (PS Form 3800)
- Request for Certified Mail (WCJ-119)
- Request for Inmate Mail Monitoring (WCJ-194)
- Returned Mail (WCJ-133-FL)

REFERENCES

- US Constitution, Amendment 1 (free speech)
- US Postal Service *Domestic Mail Manual*
- ORS 40.225 Rule 503, Lawyer-Client Privilege
- ORS 169.076, Standards for Local Correctional Facilities
- WCSO Policies:
 - J-6-14, *Property Transfer*
 - J-6-29, *Inmate Property Control*
 - J-7-4, *Inmate Grievances*
 - J-7-6, *Rules and Discipline*
 - J-12-5, *Professional Visits*
 - J-14-5, *Contraband Control and Searches*
 - J-14-13, *Security Threat Groups*
 - J-14-16, *Criminal Acts and Investigation*

October 22, 2010

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Appendix 1: Prohibited Mail

Jail staff will not allow an inmate to receive or send mail that—

1. Contains—
 - a. Threats of physical harm, blackmail, extortion, or other criminal activity
 - b. Plans for escape, criminal activity, or activity that violates jail rules
 - c. Gang-related material
 - d. Information that, if conveyed, could result in physical harm to someone
 - e. Sexually explicit materials
 - f. Inflammatory material
 - g. Contraband materials (see definition on page 1 and paragraphs 33-35), including but not limited to such commonly mailed items as:
 - (1) Books larger than 9 by 12 inches or with plastic or metal bindings
 - (2) More than three books in a single piece of mail
 - (3) Foreign substances, such as:
 - (a) Bodily fluids
 - (b) Lipstick or perfume
 - (c) Glue or paint
 - (d) Anything with an unusual stain or odor that indicates a foreign substance may be present
2. Is written in code or suspected code
3. Is written in a foreign language not read by a mail handler or other reasonably available staff member
4. Was sent by an inmate to a third party who then forwarded to another inmate
5. Was a form of written communication not sent through the USPS or other approved system
6. Is incoming mail and comes from an inmate lodged in the Washington County Jail, Community Corrections Center, or other corrections-monitored facility that lodges in-custody inmates. This includes mental hospitals and treatment facilities.
7. Is to or from an inmate on electronic home detention.
8. Is to or from a victim of a crime that the inmate is in custody for in either pretrial or sentenced status.
9. Would violate a court order.
10. May produce a hostile work environment, such as sexual harassment.
11. Does not promote jail program and rehabilitation treatment goals.

17 of 19

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October 22, 2010

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12. Is not an approved commercial business or government service transaction.
13. Is a credit or deferred billing transaction, such as "bill me later" subscriptions or merchandise bought on credit or collect-on-delivery terms.
14. Violates negotiable instrument limits on sources and maximum dollar amount.
15. Is fraudulently marked as legal or official mail.

October 22, 2010

J-12-1J-12-1

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INDEX

- Addressing inmate mail, 3
 Addressing outgoing mail, 12
 Appendix I: Prohibited Mail, 16
 Books, 7, 11, 16
 Cash Envelope (WCJ-196), 7
 Cashiers checks, 7
 Central Services, 3, 4, 11, 13
 Certified mail, sending, 6
 Change of address, 14
 Check limits, 7
 Commercial business mail, 9
 Community Corrections Center (CCC) mail, 14
 Complaint, mail, 13
 Confiscated Mail Notice (WCJ-129), 10
 Confiscating
 incoming mail, 11
 prohibited mail, 9
 Contraband
 as prohibited mail, 16
 CCC mail, 14
 definition, 1
 inspecting incoming mail for, 10
 nuisance, 12
 suspecting in outgoing mail, 13
 Correspondence courses, 9
 Correspondence with victims, 8
 Delivery in pod, 11
 Delivery of incoming, 13
 Electronic home detention inmate, 16
 Envelopes
 inspecting outgoing, 12
 Gang-related material
 as prohibited mail, 16
 in mail, 9
 Government checks, 7
 Government services by mail, 9
 Outgoing mail, 12
 Health care appointment information, 8
 Health Care Appointment
 Information, 8
 Holding mail, 14
 Incoming mail
 initial processing, 10
 processing in pods, 11
 sources of, 3
 Indigent
 definition, 1
 inmate mail, 3
 Inflammatory material
 as prohibited mail, 16
 definition, 1
 Inmate Mail Guide (WCJ-128), 8, 13
 Inmate Request (WCJ-12), 6
 Jail accounting staff, 6
 Jail command officer
 approving business transaction, 9
 approving correspondence course, 9
 handling complaints, 13
 restricting outgoing mail, 8
 Junk mail, 1, 4
 Legal mail, 1, 5, 10, 11, 17
 Mail
 addressing, 12
 addressing incoming, 3
 as nuisance contraband, 12
 commercial business, 9
 complaints, 13
 confiscating, 9
 delivery of incoming, 13
 destroying, 10
 holding, 14
 indigent inmate, 3
 inmates at CCC, 14
 inspecting incoming, 10
 inspecting outgoing, 12
 limits, 2
 needing translating, 11
 nonprofit organization, 9
 outgoing, 12
 personal business, 3
 posting outgoing, 13
 processing incoming in pods, 11
 processing incoming to jail, 10
 prohibited, 9, 16
 reading incoming, 11
 reading legal or official mail, 5, 11
 reading outgoing, 12
 receiving government services, 9
 refusing, 4
 restricting outgoing, 8
 restrictions, 2
 returning to sender, 10, 12, 14
 rules, 13
 rules for inmates, 12
 sending certified, 6
 Mail complaints, 13
 Mail handler
 definition, 1
 supervision and training, 13
 Mail monitoring, 9
 Manila envelope, 12
 Money order limits, 7
 Money processing, 7
 Money-by-mail, 7
 Negotiable Instrument
 definition for, 2
 limit or source violations, 17
 Nonprofit organization mail, 9
 Nuisance contraband, 12
 Official mail, 2, 5, 10, 11, 17
 Outgoing mail
 inspecting, 12
 posting, 13
 reading, 12
 restricting, 8
 Parcels, contents of, 5
 Payroll check, 8
 Periodical, definition for, 2
 Periodicals, 2, 7
 Personal business mail
 needing special handling, 4
 receiving, 3
 special handling, 11
 Personal check, 8
 Personal mail
 definition, 2
 disciplinary sanction for, 3
 Photocopies, 5
 Postage stamps, 5
 Postage-due mail, 4
 Printed sheets, 5
 Prohibited mail
 confiscating, 9
 list of, 16
 Prohibiting mail, reason for, 3
 Property Transfer and Confiscation (WCJ-32), 10, 14
 Publications, 6
 Reading incoming mail, 11
 Reading legal or official mail, 5, 11
 Reading outgoing mail, 12
 Refusing mail, 4
 Request for Certified Mail (WCJ-119), 6
 Request for Inmate Mail Monitoring (WCJ-194), 9
 Restricting mail, generally, 2
 Restricting outgoing mail, 8
 Return address
 incoming mail, 4
 outgoing mail, 12
 Returned Mail (WCJ-133-FL), 8, 14
 Returning mail, 10, 12, 14
 Rules
 all mail, 13
 available to public, 13
 for inmates, 12
 outgoing mail, 12
 Sexually explicit material, 16
 Sexually explicit, definition for, 2
 Sexually harassing mail, 16
 Special postal services, 6
 Translating mail, 11
 Two-party check, 2, 8
 Victim, corresponding with, 8
 WCJ-119. See Request for Certified Mail
 WCJ-12. See Inmate Request
 WCJ-129. See Confiscated Mail Notice
 WCJ-133-FL. See Returned Mail
 WCJ-30. See Money-by-Mail Receipt
 WCJ-32. See Property Transfer and Confiscation

19 of 19

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Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

December 23, 2011

Steven Adams 2011002552
Columbia County Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning PLN literature

Dear Mr. Adams,

I am an attorney for the Human Rights Defense Center (HRDC). I have been informed that you may have an interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects along with the distribution of books and other literature of interest to prisoners.

I have been informed that PLN gave you a complimentary six month subscription. You should have already received your first sample via first-class mail. PLN also sent you a packet of informational brochures in a regular sized envelope. Additionally, PLN mailed a book to you about prisoners' rights and the American legal system called *Protecting Your Health and Safety*.

I am writing to ask whether you have received each of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above please write to me and let me know. You should also be receiving a new issue of PLN every month for 6 months. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and inquiring about the reason for the censorship. If possible, please provide copies of those grievances and any other related documentation to my office. Finally, if you know of other prisoners there who might be interested in our publications and who might be incarcerated for more than just a few months, please share PLN's address with them and encourage them to write in and request free information with no obligation. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber, Esq.

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00919



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

March 12, 2012

Richard Bahr 2011000357
Columbia County Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning PLN literature

Dear Mr. Bahr,

I am an attorney for the Human Rights Defense Center (HRDC). You have been identified as someone who may have a need for the information provided by *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects along with the distribution of books and other literature of interest to prisoners at high risk of having their rights violated.

PLN has given you a complimentary six month subscription. This month you should expect to receive your first subscription issue and you should receive a new issue every month for 5 months thereafter. You should have already received your free introductory copy via first-class mail. PLN also sent you a packet of informational brochures in a regular sized envelope. Additionally, PLN mailed a book to you about prisoners' rights and the American legal system called *Protecting Your Health and Safety* as a free gift.

I am writing to investigate whether you have received each of these three (3) items which have all been mailed separately. At HRDC, we rely on prisoners to help protect PLN's First Amendment rights. If you have not received all three of the items mentioned above (or any of the monthly subscription issues) please write to me and let me know. I'm also interested in hearing about any other problems you've been experiencing with incoming or outgoing mail. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and inquiring about the reason for the censorship. If possible, please provide me with copies of those grievances. Finally, if you know of other prisoners who might be interested in PLN's publications and who will be incarcerated for several months or more, please share PLN's address with them and encourage them to write in and request a free subscription. Thank you in advance for your kind attention to this letter. I wish you well in your struggles and I look forward to hearing from you.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber, Attorney at Law

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00920



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

December 23, 2011

Arthur Bates Jr 2011002343
Columbia County Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning PLN literature

Dear Mr. Bates,

I am an attorney for the Human Rights Defense Center (HRDC). I have been informed that you may have an interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects along with the distribution of books and other literature of interest to prisoners.

I have been informed that PLN gave you a complimentary six month subscription. You should have already received your first sample via first-class mail. PLN also sent you a packet of informational brochures in a regular sized envelope. Additionally, PLN mailed a book to you about prisoners' rights and the American legal system called *Protecting Your Health and Safety*.

I am writing to ask whether you have received each of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above please write to me and let me know. You should also be receiving a new issue of PLN every month for 6 months. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and inquiring about the reason for the censorship. If possible, please provide copies of those grievances and any other related documentation to my office. Finally, if you know of other prisoners there who might be interested in our publications and who might be incarcerated for more than just a few months, please share PLN's address with them and encourage them to write in and request free information with no obligation. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber, Esq.

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00921



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

February 23, 2011

Robert Beckwith 2011000082
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning legal publications

Dear Mr. Beckwith,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should already be in receipt of your first sample issue, which was sent via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. Additionally, please confirm that you wish to receive materials from Prison Legal News, including our magazine, books, pamphlets and other materials.

At HRDC we take censorship very seriously and we rely on our readers to determine which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00892



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

December 23, 2011

Toni Bertasso 2011002507
Columbia County Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning PLN literature

Dear Toni Bertasso,

I am an attorney for the Human Rights Defense Center (HRDC). I have been informed that you may have an interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects along with the distribution of books and other literature of interest to prisoners.

I have been informed that PLN gave you a complimentary six month subscription. You should have already received your first sample via first-class mail. PLN also sent you a packet of informational brochures in a regular sized envelope. Additionally, PLN mailed a book to you about prisoners' rights and the American legal system called *Protecting Your Health and Safety*.

I am writing to ask whether you have received each of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above please write to me and let me know. You should also be receiving a new issue of PLN every month for 6 months. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and inquiring about the reason for the censorship. If possible, please provide copies of those grievances and any other related documentation to my office. Finally, if you know of other prisoners there who might be interested in our publications and who might be incarcerated for more than just a few months, please share PLN's address with them and encourage them to write in and request free information with no obligation. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber, Esq.

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00922



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

February 23, 2011

Nicholas Bierman 2010001554
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning legal publications

Dear Mr. Bierman,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should already be in receipt of your first sample issue, which was sent via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. Additionally, please confirm that you wish to receive materials from Prison Legal News, including our magazine, books, pamphlets and other materials.

At HRDC we take censorship very seriously and we rely on our readers to determine which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00889



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

February 23, 2011

Daniel Butts 2011000043
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning legal publications

Dear Mr. Butts,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should already be in receipt of your first sample issue, which was sent via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. Additionally, please confirm that you wish to receive materials from Prison Legal News, including our magazine, books, pamphlets and other materials.

At HRDC we take censorship very seriously and we rely on our readers to determine which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00881



MACDONALD HOAGUE & BAYLESS
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Timothy K. Ford
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Felicia L. Gittleman
Ester Greenfield
Elizabeth Poh
Amy M. Royalty
Joseph R. Sheaffer
David J. Whedbee
Jesse Wing

August 18, 2011

LEGAL MAIL

Daniel Butts, 2011000043
Columbia County Jail
901 Port Avenue
St. Helens, OR 97051

Dear Mr. Butts:

We represent Prison Legal News (PLN), which publishes a monthly journal about prisoners' rights and distributes books about legal issues affecting prisoners. We are investigating whether the Columbia County Jail is censoring PLN's mail to you.

PLN sent the following mail to you at the Columbia County Jail in 2011:

- A. Three double-sided single-page informational brochures, enclosed together in one white standard envelope. Exhibit A is a copy of the three brochures:
 1. PLN Brochure and Subscription Order Form
 2. 2010 PLN Book List
 3. Brochure about two books for sale: (a) *The Habeas Citebook: Ineffective Assistance of Counsel* and (b) *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada*.
- B. A paperback book titled *Protecting Your Health & Safety* sent to you in a small brown cardboard box. The book is 325 pages. Exhibit B is a copy of the front and back cover of the book.
- C. *Prison Legal News's* 56-page monthly journal. Exhibit C is an example of the front and back cover of a *Prison Legal News* journal.

PLN-00503
www.mhb.com

Daniel Butts, 2011000043
August 18, 2011
Page 2

Based on our investigation, we understand that you did not receive one or more of the items identified above. We would like to know whether that is correct and whether you received any of the other materials PLN sent to you at the Columbia County Jail. Also, if the Jail censored mail that PLN sent to you, we would like to know whether you received written notice from the Jail that mail addressed to you was rejected and not delivered to you.

Please review the enclosed Exhibits. Then, please read the enclosed declaration and indicate with a checkmark (✓) whether you received or did not receive the PLN mailings, and—if you did not receive one or more of the mailings—indicate with a checkmark (✓) whether you received or did not receive written notification that mail addressed to you was rejected by the Jail. Next, please fill in the dates you were a prisoner at the Columbia County Jail. Finally, please sign and date the declaration, state the city you signed in, and send the declaration to me (with the attached exhibits) in the enclosed self-addressed, postage pre-paid envelope. If possible, please use a pen to complete the declaration.

We need your response by **August 31, 2011**.

After you mail us your signed declaration, please call our office at (206) 622-1604, and ask to speak to Carrie Wilkinson. Our telephone number is registered with the telephone services utilized by Columbia County Jail. We have other questions for you. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

Katherine C. Chamberlain
Attorney, Licensed in Oregon and Washington

Enclosure(s)

287015 2517220

PLNCOL-00504



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

August 2, 2011
Rusty Campo 2011001307
Columbia Co Jail
901 Port Ave
St Helens, Oregon 97501

RE: Correspondence concerning PLN literature

Dear Mr. Campo,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects. Unfortunately, sometimes prisons and jails unlawfully interfere with PLN's publication rights.

I have been informed that PLN gave you a complimentary six month subscription. You should be receiving your first sample issue shortly via first-class mail. PLN also sent you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above within the next few weeks, please write to me and let me know. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to my office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write in to request a free trial subscription. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00937



MACDONALD HOAGUE & BAYLESS
ATTORNEYS AND COUNSELORS AT LAW

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Timothy K. Ford
Karin E. Frank
Felicia L. Gittleman
Ester Greenfield
Elizabeth Poh
Amy M. Royalty
Joseph R. Shaeffer
David J. Whedbee
Jesse Wing

August 18, 2011

LEGAL MAIL

Rusty D. Campo, 2011001307
Columbia County Jail
901 Port Avenue
St. Helens, Oregon 97051

Dear Mr. Campo:

We represent Prison Legal News (PLN), which publishes a monthly journal about prisoners' rights and distributes books about legal issues affecting prisoners. We are investigating whether the Columbia County Jail is censoring PLN's mail to you.

PLN sent the following mail to you at the Columbia County Jail in 2011:

- A. Three double-sided single-page informational brochures, enclosed together in one white standard envelope. Exhibit A is a copy of the three brochures:
 - 1. PLN Brochure and Subscription Order Form
 - 2. 2010 PLN Book List
 - 3. Brochure about two books for sale: (a) *The Habeas Citebook: Ineffective Assistance of Counsel* and (b) *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada*.
- B. A paperback book titled *Protecting Your Health & Safety* sent to you in a small brown cardboard box. The book is 325 pages. Exhibit B is a copy of the front and back cover of the book.
- C. *Prison Legal News's* 56-page monthly journal. Exhibit C is an example of the front and back cover of a *Prison Legal News* journal.

PLNOL-00521
www.mhb.com

Rusty D. Campo, 2011001307
August 18, 2011
Page 2

Based on our investigation, we understand that you did not receive one or more of the items identified above. We would like to know whether that is correct and whether you received any of the other materials PLN sent to you at the Columbia County Jail. Also, if the Jail censored mail that PLN sent to you, we would like to know whether you received written notice from the Jail that mail addressed to you was rejected and not delivered to you.

Please review the enclosed Exhibits. Then, please read the enclosed declaration and indicate with a checkmark (✓) whether you received or did not receive the PLN mailings, and—if you did not receive one or more of the mailings—indicate with a checkmark (✓) whether you received or did not receive written notification that mail addressed to you was rejected by the Jail. Next, please fill in the dates you were a prisoner at the Columbia County Jail. Finally, please sign and date the declaration, state the city you signed in, and send the declaration to me (with the attached exhibits) in the enclosed self-addressed, postage pre-paid envelope. If possible, please use a pen to complete the declaration.

We need your response by August 31, 2011.

After you mail us your signed declaration, please call our office at (206) 622-1604, and ask to speak to Carrie Wilkinson. Our telephone number is registered with the telephone services utilized by Columbia County Jail. We have other questions for you. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

Katherine C. Chamberlain
Attorney, Licensed in Oregon and Washington

Enclosure(s)



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY CORRESPONDENCE

April 18, 2012

Rusty D Campo
Columbia Co Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning legal publications

Dear Mr. Rusty D Campo,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should be receiving your first sample issue shortly via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately.

At HRDC we take censorship very seriously and we rely almost exclusively on our incarcerated readers to inform us about which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhaust all available administrative remedies in an attempt to get them to release the material to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

Post Office Box 2420
West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00915



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

December 23, 2011

Robert Clement 2011002143
Columbia County Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning PLN literature

Dear Mr. Clement,

I am an attorney for the Human Rights Defense Center (HRDC). I have been informed that you may have an interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects along with the distribution of books and other literature of interest to prisoners.

I have been informed that PLN gave you a complimentary six month subscription. You should have already received your first sample via first-class mail. PLN also sent you a packet of informational brochures in a regular sized envelope. Additionally, PLN mailed a book to you about prisoners' rights and the American legal system called *Protecting Your Health and Safety*.

I am writing to ask whether you have received each of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above please write to me and let me know. You should also be receiving a new issue of PLN every month for 6 months. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and inquiring about the reason for the censorship. If possible, please provide copies of those grievances and any other related documentation to my office. Finally, if you know of other prisoners there who might be interested in our publications and who might be incarcerated for more than just a few months, please share PLN's address with them and encourage them to write in and request free information with no obligation. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber, Esq.

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00923



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

December 23, 2011

Anthony Deherrera 2011001729
Columbia County Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning PLN literature

Dear Mr. Deherrera,

I am an attorney for the Human Rights Defense Center (HRDC). I have been informed that you may have an interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects along with the distribution of books and other literature of interest to prisoners.

I have been informed that PLN gave you a complimentary six month subscription. You should have already received your first sample via first-class mail. PLN also sent you a packet of informational brochures in a regular sized envelope. Additionally, PLN mailed a book to you about prisoners' rights and the American legal system called *Protecting Your Health and Safety*.

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Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber, Esq.

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00924



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

February 23, 2011

Corey Dell 2010002487
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning legal publications

Dear Mr. Dell,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should already be in receipt of your first sample issue, which was sent via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. Additionally, please confirm that you wish to receive materials from Prison Legal News, including our magazine, books, pamphlets and other materials.

At HRDC we take censorship very seriously and we rely on our readers to determine which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00880



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Francis Hoague (1908-1993)

Kenneth A. MacDonald
Retired

Miguel A. Bocanegra
Andrea Branneke
Katherine C. Chamberlain
Andrew T. Chan
Mel Crawford
Timothy K. Ford
Kathrin E. Frank
Felicia L. Gittleman
Ester Greenfield
Elizabeth Poh
Amy M. Royalty
Joseph R. Shaeffer
David J. Whedbee
Jesse Wing

LEGAL MAIL

Coryn Dell, 2010002487
Columbia County Jail
901 Port Avenue
St. Helens, Oregon 97051

Dear Mr. Dell:

We represent Prison Legal News (PLN), which publishes a monthly journal about prisoners' rights and distributes books about legal issues affecting prisoners. We are investigating whether the Columbia County Jail is censoring PLN's mail to you.

PLN sent the following mail to you at the Columbia County Jail in 2011:

- a) Three double-sided single-page informational brochures, enclosed together in one white standard envelope. Exhibit A is a copy of the three brochures:
 - i) PLN Brochure and Subscription Order Form
 - ii) 2010 PLN Book List
 - iii) Brochure about two books for sale: (i) *The Habeas Citebook: Ineffective Assistance of Counsel* and (ii) *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada*.
- b) A paperback book titled *Protecting Your Health & Safety* sent to you in a small brown cardboard box. The book is 325 pages. Exhibit B is a copy of the front and back cover of the book.
- c) *Prison Legal News's* 56-page monthly journal. Exhibit C is an example of the front and back cover of a *Prison Legal News* journal.

PLNCO-00539
www.mhb.com

Coryn Dell 2010002487
August 18, 2011
Page 2

Based on our investigation, we understand that you did not receive one or more of the items identified above. We would like to know whether that is correct and whether you received any of the other materials PLN sent to you at the Columbia County Jail. Also, if the Jail censored mail that PLN sent to you, we would like to know whether you received written notice from the Jail that mail addressed to you was rejected and not delivered to you.

Please review the enclosed Exhibits. Then, please read the enclosed declaration and indicate with a checkmark (✓) whether you received or did not receive the PLN mailings, and—if you did not receive one or more of the mailings—indicate with a checkmark (✓) whether you received or did not receive written notification that mail addressed to you was rejected by the Jail. Next, please fill in the dates you were a prisoner at the Columbia County Jail. Finally, please sign and date the declaration, state the city you signed in, and send the declaration to me (with the attached exhibits) in the enclosed self-addressed, postage pre-paid envelope. If possible, please use a pen to complete the declaration.

We need your response by August 31, 2011.

After you mail us your signed declaration, please call our office at (206) 622-1604, and ask to speak to Carrie Wilkinson. Our telephone number is registered with the telephone services utilized by Columbia County Jail. We have other questions for you. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

Katherine C. Chamberlain
Attorney, Licensed in Oregon and Washington

Enclosure(s)

PLNCOL-00540



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

March 12, 2012

Dennis Engle 2011002153
Columbia County Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning PLN literature

Dear Mr. Engle,

I am an attorney for the Human Rights Defense Center (HRDC). You have been identified as someone who may have a need for the information provided by *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects along with the distribution of books and other literature of interest to prisoners at high risk of having their rights violated.

PLN has given you a complimentary six month subscription. This month you should expect to receive your first subscription issue and you should receive a new issue every month for 5 months thereafter. You should have already received your free introductory copy via first-class mail. PLN also sent you a packet of informational brochures in a regular sized envelope. Additionally, PLN mailed a book to you about prisoners' rights and the American legal system called *Protecting Your Health and Safety* as a free gift.

I am writing to investigate whether you have received each of these three (3) items which have all been mailed separately. At HRDC, we rely on prisoners to help protect PLN's First Amendment rights. If you have not received all three of the items mentioned above (or any of the monthly subscription issues) please write to me and let me know. I'm also interested in hearing about any other problems you've been experiencing with incoming or outgoing mail. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and inquiring about the reason for the censorship. If possible, please provide me with copies of those grievances. Finally, if you know of other prisoners who might be interested in PLN's publications and who will be incarcerated for several months or more, please share PLN's address with them and encourage them to write in and request a free subscription. Thank you in advance for your kind attention to this letter. I wish you well in your struggles and I look forward to hearing from you.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber, Attorney at Law

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00925



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

February 23, 2011

Jacob Francoeur 2011000086
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning legal publications

Dear Mr. Francoeur,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should already be in receipt of your first sample issue, which was sent via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. Additionally, please confirm that you wish to receive materials from Prison Legal News, including our magazine, books, pamphlets and other materials.

At HRDC we take censorship very seriously and we rely on our readers to determine which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00883



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

August 2, 2011
Mark Gift 2010000410
Columbia Co Jail
901 Port Ave
St Helens, Oregon 97501

RE: Correspondence concerning PLN literature

Dear Mr. Gift,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects. Unfortunately, sometimes prisons and jails unlawfully interfere with PLN's publication rights.

I have been informed that PLN gave you a complimentary six month subscription. You should be receiving your first sample issue shortly via first-class mail. PLN also sent you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above within the next few weeks, please write to me and let me know. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to my office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write in to request a free trial subscription. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00918



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY CORRESPONDENCE

April 18, 2012

Nicholas A Harris
Columbia Co Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning legal publications

Dear Mr. Nicholas A Harris,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should be receiving your first sample issue shortly via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately.

At HRDC we take censorship very seriously and we rely almost exclusively on our incarcerated readers to inform us about which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhaust all available administrative remedies in an attempt to get them to release the material to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

Post Office Box 2420
West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00913



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

December 23, 2011

Kenna Haynes 2011002213
Columbia County Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning PLN literature

Dear Kenna Haynes,

I am an attorney for the Human Rights Defense Center (HRDC). I have been informed that you may have an interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects along with the distribution of books and other literature of interest to prisoners.

I have been informed that PLN gave you a complimentary six month subscription. You should have already received your first sample via first-class mail. PLN also sent you a packet of informational brochures in a regular sized envelope. Additionally, PLN mailed a book to you about prisoners' rights and the American legal system called *Protecting Your Health and Safety*.

I am writing to ask whether you have received each of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above please write to me and let me know. You should also be receiving a new issue of PLN every month for 6 months. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and inquiring about the reason for the censorship. If possible, please provide copies of those grievances and any other related documentation to my office. Finally, if you know of other prisoners there who might be interested in our publications and who might be incarcerated for more than just a few months, please share PLN's address with them and encourage them to write in and request free information with no obligation. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber, Esq.

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00926



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

February 23, 2011

William Hess 2010002207
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning legal publications

Dear Mr. Hess,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should already be in receipt of your first sample issue, which was sent via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. Additionally, please confirm that you wish to receive materials from Prison Legal News, including our magazine, books, pamphlets and other materials.

At HRDC we take censorship very seriously and we rely on our readers to determine which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00898



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY CORRESPONDENCE

April 18, 2012

Brian C Hinkle
Columbia Co Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning legal publications

Dear Mr. Brian C Hinkle,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should be receiving your first sample issue shortly via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately.

At HRDC we take censorship very seriously and we rely almost exclusively on our incarcerated readers to inform us about which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhaust all available administrative remedies in an attempt to get them to release the material to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

Post Office Box 2420
West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00908



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

February 23, 2011

Nicholas Jones 201001862
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning legal publications

Dear Mr. Jones,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should already be in receipt of your first sample issue, which was sent via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. Additionally, please confirm that you wish to receive materials from Prison Legal News, including our magazine, books, pamphlets and other materials.

At HRDC we take censorship very seriously and we rely on our readers to determine which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00891



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

February 23, 2011

Martin Kay 2010001188
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning legal publications

Dear Mr. Kay,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should already be in receipt of your first sample issue, which was sent via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. Additionally, please confirm that you wish to receive materials from Prison Legal News, including our magazine, books, pamphlets and other materials.

At HRDC we take censorship very seriously and we rely on our readers to determine which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00888



MACDONALD HOAGUE & BAYLESS
ATTORNEYS AND COUNSELORS AT LAW

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Felicia L. Gittleman
Ester Greenfield
Elizabeth Poh
Amy M. Royally
Joseph R. Shaeffer
David J. Whedbee
Jesse Wing

August 18, 2011

LEGAL MAIL

Martin Kay, 2010001188
Columbia County Jail
901 Port Avenue
St. Helens, OR 97051

Dear Mr. Kay:

We represent Prison Legal News (PLN), which publishes a monthly journal about prisoners' rights and distributes books about legal issues affecting prisoners. We are investigating whether the Columbia County Jail is censoring PLN's mail to you.

PLN sent the following mail to you at the Columbia County Jail in 2011:

- A. Three double-sided single-page informational brochures, enclosed together in one white standard envelope. Exhibit A is a copy of the three brochures:
 - 1. PLN Brochure and Subscription Order Form
 - 2. 2010 PLN Book List
 - 3. Brochure about two books for sale: (a) *The Habeas Citebook: Ineffective Assistance of Counsel* and (b) *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada*.
- B. A paperback book titled *Protecting Your Health & Safety* sent to you in a small brown cardboard box. The book is 325 pages. Exhibit B is a copy of the front and back cover of the book.
- C. *Prison Legal News's* 56-page monthly journal. Exhibit C is an example of the front and back cover of a *Prison Legal News* journal.

PLNCOL-00557

www.mhba.com

Martin Kay, 2010001188
August 18, 2011
Page 2

- D. A one-page PLN subscription renewal letter, enclosed with a copy of the three informational brochures described above, in a white standard envelope. Exhibit D is a copy of the letter and brochures.

Based on our investigation, we understand that you did not receive one or more of the items identified above. We would like to know whether that is correct and whether you received any of the other materials PLN sent to you at the Columbia County Jail. Also, if the Jail censored mail that PLN sent to you, we would like to know whether you received written notice from the Jail that mail addressed to you was rejected and not delivered to you.

Please review the enclosed Exhibits. Then, please read the enclosed declaration and indicate with a checkmark (✓) whether you received or did not receive the PLN mailings, and—if you did not receive one or more of the mailings—indicate with a checkmark (✓) whether you received or did not receive written notification that mail addressed to you was rejected by the Jail. Next, please fill in the dates you were a prisoner at the Columbia County Jail. Finally, please sign and date the declaration, state the city you signed in, and send the declaration to me (with the attached exhibits) in the enclosed self-addressed, postage pre-paid envelope. If possible, please use a pen to complete the declaration.

We need your response by August 31, 2011.

After you mail us your signed declaration, please call our office at (206) 622-1604, and ask to speak to Carrie Wilkinson. Our telephone number is registered with the telephone services utilized by Columbia County Jail. We have other questions for you. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

Katherine C. Chamberlain
Attorney, Licensed in Oregon and Washington

Enclosure(s)





Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

**CONFIDENTIAL LEGAL MAIL: ATTORNEY CORRESPONDENCE WITH
PRISONER**

September 9, 2010

Andrew Kowalczyk 2010001712
Columbia County Jail
901 Port Avenue
St. Helens, OR 97051-3018

Dear Mr. Kowalczyk,

My name is Adam Cook; I serve as counsel for the Human Rights Defense Center (HRDC), a 501(c)(3) non-profit corporation. Prison Legal News is a project of the Center.

I am aware that PLN's Editor, Paul Wright, sent you an info pack, a complimentary trial subscription to Prison Legal News, and a copy of the book, *Protecting Your Health and Safety*.

I am writing to find out whether or not you received anything from us, especially the magazine or the book? If not, have you received any notice from the jail about it? If so, would you send that to us? We have had trouble before sending the legal news to the jails. We take censorship of our materials very seriously and want to make sure the jail does not censor our publications.

Also, if you know of other prisoners who would like a free trial subscription to Prison Legal News, please tell them to write to Prison Legal News, using the address at the bottom of this letter. The sooner they write the sooner PLN can start their trial subscriptions.

Thank you for your time and attention to this matter. I look forward to your response.

Sincerely,

Adam Cook, Esq.

Post Office Box 2420
West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: adam_k_cook@yahoo.com

PLNCOL-00905



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

George Lammi 2011001225
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning PLN literature

Dear Mr. Lammi,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects. Unfortunately, sometimes prisons and jails unlawfully interfere with PLN's publication rights.

I have been informed that PLN gave you a complimentary six month subscription. You should be receiving your first sample issue shortly via first-class mail. PLN also sent you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above within the next few weeks, please write to me and let me know. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to my office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write in to request a free trial subscription. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00899



MACDONALD HOAGUE & BAYLESS
ATTORNEYS AND COUNSELORS AT LAW

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Retired

Miguel A. Bocanegra
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Katherine C. Chamberlain
Andrew T. Chan
Mel Crawford
Timothy K. Ford
Karin E. Frank
Felicia L. Gittleman
Ester Greenfield
Elizabeth Poh
Amy M. Royalty
Joseph R. Shaeffer
David J. Whedbee
Jesse Wing

August 19, 2011

LEGAL MAIL

George Lammi, 2011001225
Columbia County Jail
901 Port Avenue
St. Helens, OR 97051

Dear Mr. Lammi:

We represent Prison Legal News (PLN), which publishes a monthly journal about prisoners' rights and distributes books about legal issues affecting prisoners. We are investigating whether the Columbia County Jail is censoring PLN's mail to you.

PLN sent the following mail to you at the Columbia County Jail in 2011:

- A. Three double-sided single-page informational brochures, enclosed together in one white standard envelope. Exhibit A is a copy of the three brochures:
 - 1. PLN Brochure and Subscription Order Form
 - 2. 2010 PLN Book List
 - 3. Brochure about two books for sale: (a) *The Habeas Citebook: Ineffective Assistance of Counsel* and (b) *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada*.
- B. A paperback book titled *Protecting Your Health & Safety* sent to you in a small brown cardboard box. The book is 325 pages. Exhibit B is a copy of the front and back cover of the book.
- C. *Prison Legal News's* 56-page monthly journal. Exhibit C is an example of the front and back cover of a *Prison Legal News* journal.

PLNCOL-00583
www.mhb.com

George Lammi, 2011001225
August 19, 2011
Page 2

Based on our investigation, we understand that you did not receive one or more of the items identified above. We would like to know whether that is correct and whether you received any of the other materials PLN sent to you at the Columbia County Jail. Also, if the Jail censored mail that PLN sent to you, we would like to know whether you received written notice from the Jail that mail addressed to you was rejected and not delivered to you.

Please review the enclosed Exhibits. Then, please read the enclosed declaration and indicate with a checkmark (✓) whether you received or did not receive the PLN mailings, and—if you did not receive one or more of the mailings—indicate with a checkmark (✓) whether you received or did not receive written notification that mail addressed to you was rejected by the Jail. Next, please fill in the dates you were a prisoner at the Columbia County Jail. Finally, please sign and date the declaration, state the city you signed in, and send the declaration to me (with the attached exhibits) in the enclosed self-addressed, postage pre-paid envelope. If possible, please use a pen to complete the declaration.

We need your response by August 31, 2011.

After you mail us your signed declaration, please call our office at (206) 622-1604, and ask to speak to Carrie Wilkinson. Our telephone number is registered with the telephone services utilized by Columbia County Jail. We have other questions for you. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

Katherine C. Chamberlain
Attorney, Licensed in Oregon and Washington

Enclosure(s)

PLNCOL-00584



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

February 23, 2011

Scott Lavelle 2010000245
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning legal publications

Dear Mr. Lavelle,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should already be in receipt of your first sample issue, which was sent via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. Additionally, please confirm that you wish to receive materials from Prison Legal News, including our magazine, books, pamphlets and other materials.

At HRDC we take censorship very seriously and we rely on our readers to determine which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00894



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

December 23, 2011

Scott Lavelle 2011002501
Columbia County Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning PLN literature

Dear Mr. Lavelle,

I am an attorney for the Human Rights Defense Center (HRDC). I have been informed that you may have an interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects along with the distribution of books and other literature of interest to prisoners.

I have been informed that PLN gave you a complimentary six month subscription. You should have already received your first sample via first-class mail. PLN also sent you a packet of informational brochures in a regular sized envelope. Additionally, PLN mailed a book to you about prisoners' rights and the American legal system called *Protecting Your Health and Safety*.

I am writing to ask whether you have received each of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above please write to me and let me know. You should also be receiving a new issue of PLN every month for 6 months. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and inquiring about the reason for the censorship. If possible, please provide copies of those grievances and any other related documentation to my office. Finally, if you know of other prisoners there who might be interested in our publications and who might be incarcerated for more than just a few months, please share PLN's address with them and encourage them to write in and request free information with no obligation. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber, Esq.

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00927



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

February 23, 2011

Troy McCarter 2010002022
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning legal publications

Dear Mr. McCarter,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should already be in receipt of your first sample issue, which was sent via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. Additionally, please confirm that you wish to receive materials from Prison Legal News, including our magazine, books, pamphlets and other materials.

At HRDC we take censorship very seriously and we rely on our readers to determine which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00897



MACDONALD HOAGUE & BAYLESS
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Francis Hoague (1)

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Miguel A. Bocanegra
Andrea Brenneke
Katherine C. Chamberlain
Andrew T. Chan
Mel Crawford
Timothy K. Ford
Katrin E. Frank
Felicia L. Gittleman
Ester Greenfield
Elizabeth Poh
Amy M. Royalty
Joseph R. Shaeffer
David J. Whedbee
Jesse Wing

Unsigned
dups
removed

August 18, 2011

LEGAL MAIL

Troy McCarter, 2010002022
Columbia County Jail
901 Port Avenue
St. Helens, OR 97051

Dear Mr. McCarter:

We represent Prison Legal News (PLN), which publishes a monthly journal about prisoners' rights and distributes books about legal issues affecting prisoners. We are investigating whether the Columbia County Jail is censoring PLN's mail to you.

PLN sent the following mail to you at the Columbia County Jail in 2011:

- A. Three double-sided single-page informational brochures, enclosed together in one white standard envelope. Exhibit A is a copy of the three brochures:
 1. PLN Brochure and Subscription Order Form
 2. 2010 PLN Book List
 3. Brochure about two books for sale: (a) *The Habeas Citebook: Ineffective Assistance of Counsel* and (b) *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada*.
- B. A paperback book titled *Protecting Your Health & Safety* sent to you in a small brown cardboard box. The book is 325 pages. Exhibit B is a copy of the front and back cover of the book.
- C. *Prison Legal News's* 56-page monthly journal. Exhibit C is an example of the front and back cover of a *Prison Legal News* journal.

PLNCO-00600
www.mhb.com

Troy McCarter, 2010002022
August 18, 2011
Page 2

- D. A one-page PLN subscription renewal letter, enclosed with a copy of the three informational brochures described above, in a white standard envelope. Exhibit D is a copy of the letter and brochures.

Based on our investigation, we understand that you did not receive one or more of the items identified above. We would like to know whether that is correct and whether you received any of the other materials PLN sent to you at the Columbia County Jail. Also, if the Jail censored mail that PLN sent to you, we would like to know whether you received written notice from the Jail that mail addressed to you was rejected and not delivered to you.

Please review the enclosed Exhibits. Then, please read the enclosed declaration and indicate with a checkmark (✓) whether you received or did not receive the PLN mailings, and—if you did not receive one or more of the mailings—indicate with a checkmark (✓) whether you received or did not receive written notification that mail addressed to you was rejected by the Jail. Next, please fill in the dates you were a prisoner at the Columbia County Jail. Finally, please sign and date the declaration, state the city you signed in, and send the declaration to me (with the attached exhibits) in the enclosed self-addressed, postage pre-paid envelope. If possible, please use a pen to complete the declaration.

We need your response by **August 31, 2011**.

After you mail us your signed declaration, please call our office at (206) 622-1604, and ask to speak to Carrie Wilkinson. Our telephone number is registered with the telephone services utilized by Columbia County Jail. We have other questions for you. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

Katherine C. Chamberlain
Attorney, Licensed in Oregon and Washington

Enclosure(s)

9870.05 csl/yz201

PLNCOL-00601



MACDONALD HOAGUE & BAYLESS
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Timothy K. Ford
Katrin E. Frank
Felicia L. Gittleman
Esler Greenfield
Elizabeth Poh
Amy M. Royally
Joseph R. Shaeffer
David J. Whedbee
Jesse Wing

August 18, 2011

LEGAL MAIL

Ryan G. Sanders, DOC #17856614
Oregon State Correctional Institution
3405 Deer Park Drive SE
Salem, OR 97310-9385

Dear Mr. Sanders:

We represent Prison Legal News (PLN), which publishes a monthly journal about prisoners' rights and distributes books about legal issues affecting prisoners. We are investigating whether the Columbia County Jail censored PLN's mail to you.

PLN sent the following mail to you at the Columbia County Jail in 2011:

- A. Three double-sided single-page informational brochures, enclosed together in one white standard envelope. Exhibit A is a copy of the three brochures:
 - 1. PLN Brochure and Subscription Order Form
 - 2. 2010 PLN Book List
 - 3. Brochure about two books for sale: (a) *The Habeas Citebook: Ineffective Assistance of Counsel* and (b) *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada*.
- B. A paperback book titled *Protecting Your Health & Safety* sent to you in a small brown cardboard box. The book is 325 pages. Exhibit B is a copy of the front and back cover of the book.
- C. *Prison Legal News's* 56-page monthly journal. Exhibit C is an example of the front and back cover of a *Prison Legal News* journal.

PLNCOL-00686
www.mh&b.com

Ryan G. Sanders, DOC #17856614
August 18, 2011
Page 2

Based on our investigation, we understand that you did not receive one or more of the items identified above. We would like to know whether that is correct and whether you received any of the other materials PLN sent to you at the Columbia County Jail. Also, if the Jail censored mail that PLN sent to you, we would like to know whether you received written notice from the Jail that mail addressed to you was rejected and not delivered to you.

Please review the enclosed Exhibits. Then, please read the enclosed declaration and indicate with a checkmark (✓) whether you received or did not receive the PLN mailings, and—if you did not receive one or more of the mailings—indicate with a checkmark (✓) whether you received or did not receive written notification that mail addressed to you was rejected by the Jail. Next, please fill in the dates you were a prisoner at the Columbia County Jail. Finally, please sign and date the declaration, state the city you signed in, and send the declaration to me (with the attached exhibits) in the enclosed self-addressed, postage pre-paid envelope. If possible, please use a pen to complete the declaration.

We need your response by August 31, 2011.

After you mail us your signed declaration, please call our office at (206) 622-1604, and ask to speak to Carrie Wilkinson. Our telephone number is registered with the telephone services utilized by the Oregon State DOC. We have other questions for you. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

Katherine C. Chamberlain
Attorney, Licensed in Oregon and Washington

Enclosure(s)





Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY CORRESPONDENCE

April 18, 2012

Ryan G Sanders
Columbia Co Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning legal publications

Dear Mr. Ryan G Sanders,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should be receiving your first sample issue shortly via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately.

At HRDC we take censorship very seriously and we rely almost exclusively on our incarcerated readers to inform us about which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhaust all available administrative remedies in an attempt to get them to release the material to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

Post Office Box 2420
West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00916



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

Cindy M Seaston 2011000819
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning PLN literature

Dear Ms. Seaston ,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects. Unfortunately, sometimes prisons and jails unlawfully interfere with PLN's publication rights.

I have been informed that PLN gave you a complimentary six month subscription. You should be receiving your first sample issue shortly via first-class mail. PLN also sent you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above within the next few weeks, please write to me and let me know. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to my office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write in to request a free trial subscription. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00901

PLNCOL-00902



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Francis Hoague (1909-1993)

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Karin E. Frank
Felicia L. Gittleman
Ester Greenfield
Elizabeth Poh
Amy M. Royalty
Joseph R. Shaeffer
David J. Whedbee
Jesse Wing

August 19, 2011

LEGAL MAIL

Cindy M. Seastone, 2011000819
Columbia County Jail
901 Port Avenue
St. Helens, OR 97051

Dear Ms. Seastone:

We represent Prison Legal News (PLN), which publishes a monthly journal about prisoners' rights and distributes books about legal issues affecting prisoners. We are investigating whether the Columbia County Jail is censoring PLN's mail to you.

PLN sent the following mail to you at the Columbia County Jail in 2011:

- A. Three double-sided single-page informational brochures, enclosed together in one white standard envelope. Exhibit A is a copy of the three brochures:
 - 1. PLN Brochure and Subscription Order Form
 - 2. 2010 PLN Book List
 - 3. Brochure about two books for sale: (a) *The Habeas Citebook: Ineffective Assistance of Counsel* and (b) *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada*.
- B. A paperback book titled *Protecting Your Health & Safety* sent to you in a small brown cardboard box. The book is 325 pages. Exhibit B is a copy of the front and back cover of the book.
- C. *Prison Legal News's* 56-page monthly journal. Exhibit C is an example of the front and back cover of a *Prison Legal News* journal.

PLN-00704
www.mhb.com

Cindy M. Seastone, 2011000819
August 19, 2011
Page 2

Based on our investigation, we understand that you did not receive one or more of the items identified above. We would like to know whether that is correct and whether you received any of the other materials PLN sent to you at the Columbia County Jail. Also, if the Jail censored mail that PLN sent to you, we would like to know whether you received written notice from the Jail that mail addressed to you was rejected and not delivered to you.

Please review the enclosed Exhibits. Then, please read the enclosed declaration and indicate with a checkmark (✓) whether you received or did not receive the PLN mailings, and—if you did not receive one or more of the mailings—indicate with a checkmark (✓) whether you received or did not receive written notification that mail addressed to you was rejected by the Jail. Next, please fill in the dates you were a prisoner at the Columbia County Jail. Finally, please sign and date the declaration, state the city you signed in, and send the declaration to me (with the attached exhibits) in the enclosed self-addressed, postage pre-paid envelope. If possible, please use a pen to complete the declaration.

We need your response by August 31, 2011.

After you mail us your signed declaration, please call our office at (206) 622-1604, and ask to speak to Carrie Wilkinson. Our telephone number is registered with the telephone services utilized by Columbia County Jail. We have other questions for you. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

Katherine C. Chamberlain
Attorney, Licensed in Oregon and Washington

Enclosure(s)

9870.05 ch172201

PLNCOL-00705



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

August 2, 2011
Barry Shaft 2011000612
Columbia Co Jail
901 Port Ave
St Helens, Oregon 97501

RE: Correspondence concerning PLN literature

Dear Mr. Shaft,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects. Unfortunately, sometimes prisons and jails unlawfully interfere with PLN's publication rights.

I have been informed that PLN gave you a complimentary six month subscription. You should be receiving your first sample issue shortly via first-class mail. PLN also sent you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above within the next few weeks, please write to me and let me know. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to my office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write in to request a free trial subscription. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00906



MACDONALD HOAGUE & BAYLESS
ATTORNEYS AND COUNSELORS AT LAW

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Felicia L. Gittleman
Ester Greenfield
Elizabeth Poh
Amy M. Royalty
Joseph R. Shaeffer
David J. Whedbee
Jesse Wing

August 19, 2011

LEGAL MAIL

Barry Shaft, 2011000612
Columbia County Jail
901 Port Avenue
St. Helens, OR 97051

Dear Mr. Shaft:

We represent Prison Legal News (PLN), which publishes a monthly journal about prisoners' rights and distributes books about legal issues affecting prisoners. We are investigating whether the Columbia County Jail is censoring PLN's mail to you.

PLN sent the following mail to you at the Columbia County Jail in 2011:

- A. Three double-sided single-page informational brochures, enclosed together in one white standard envelope. Exhibit A is a copy of the three brochures:
 - 1. PLN Brochure and Subscription Order Form
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- B. A paperback book titled *Protecting Your Health & Safety* sent to you in a small brown cardboard box. The book is 325 pages. Exhibit B is a copy of the front and back cover of the book.
- C. *Prison Legal News's* 56-page monthly journal. Exhibit C is an example of the front and back cover of a *Prison Legal News* journal.

PLNCOL-00721
www.mhb.com

Barry Shaft, 2011000612
August 19, 2011
Page 2

Based on our investigation, we understand that you did not receive one or more of the items identified above. We would like to know whether that is correct and whether you received any of the other materials PLN sent to you at the Columbia County Jail. Also, if the Jail censored mail that PLN sent to you, we would like to know whether you received written notice from the Jail that mail addressed to you was rejected and not delivered to you.

Please review the enclosed Exhibits. Then, please read the enclosed declaration and indicate with a checkmark (✓) whether you received or did not receive the PLN mailings, and—if you did not receive one or more of the mailings—indicate with a checkmark (✓) whether you received or did not receive written notification that mail addressed to you was rejected by the Jail. Next, please fill in the dates you were a prisoner at the Columbia County Jail. Finally, please sign and date the declaration, state the city you signed in, and send the declaration to me (with the attached exhibits) in the enclosed self-addressed, postage pre-paid envelope. If possible, please use a pen to complete the declaration.

We need your response by **August 31, 2011**.

After you mail us your signed declaration, please call our office at (206) 622-1604, and ask to speak to Carrie Wilkinson. Our telephone number is registered with the telephone services utilized by Columbia County Jail. We have other questions for you. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

Katherine C. Chamberlain
Attorney, Licensed in Oregon and Washington

Enclosure(s)

987015 08/17/2011

PLNCOL-00722



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

February 23, 2011

Ezra St Helen 2010000397
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning legal publications

Dear Mr. St Helen,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should already be in receipt of your first sample issue, which was sent via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. Additionally, please confirm that you wish to receive materials from Prison Legal News, including our magazine, books, pamphlets and other materials.

At HRDC we take censorship very seriously and we rely on our readers to determine which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to our office.

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Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00877



MACDONALD HOAGUE & BAYLESS
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Felicia L. Gittleman
Ester Greenfield
Elizabeth Poh
Amy M. Royalty
Joseph R. Shaeffer
David J. Whedbee
Jesse Wing

August 18, 2011

LEGAL MAIL

Ezra St. Helen, 2010000397
Columbia County Jail
901 Port Avenue
St. Helens, Oregon 97051

Dear Mr. St. Helen:

We represent Prison Legal News (PLN), which publishes a monthly journal about prisoners' rights and distributes books about legal issues affecting prisoners. We are investigating whether the Columbia County Jail is censoring PLN's mail to you.

PLN sent the following mail to you at the Columbia County Jail in 2011:

- A. Three double-sided single-page informational brochures, enclosed together in one white standard envelope. Exhibit A is a copy of the three brochures:
 - 1. PLN Brochure and Subscription Order Form
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- B. A paperback book titled *Protecting Your Health & Safety* sent to you in a small brown cardboard box. The book is 325 pages. Exhibit B is a copy of the front and back cover of the book.
- C. *Prison Legal News's* 56-page monthly journal. Exhibit C is an example of the front and back cover of a *Prison Legal News* journal.

PLNCOL-00738
www.mhb.com

Ezra St. Helen, 2010000397
August 18, 2011
Page 2

- D. A one-page PLN subscription renewal letter, enclosed with a copy of the three informational brochures described above, in a white standard envelope. Exhibit D is a copy of the letter and brochures.

Based on our investigation, we understand that you did not receive one or more of the items identified above. We would like to know whether that is correct and whether you received any of the other materials PLN sent to you at the Columbia County Jail. Also, if the Jail censored mail that PLN sent to you, we would like to know whether you received written notice from the Jail that mail addressed to you was rejected and not delivered to you.

Please review the enclosed Exhibits. Then, please read the enclosed declaration and indicate with a checkmark (✓) whether you received or did not receive the PLN mailings, and—if you did not receive one or more of the mailings—indicate with a checkmark (✓) whether you received or did not receive written notification that mail addressed to you was rejected by the Jail. Next, please fill in the dates you were a prisoner at the Columbia County Jail. Finally, please sign and date the declaration, state the city you signed in, and send the declaration to me (with the attached exhibits) in the enclosed self-addressed, postage pre-paid envelope. If possible, please use a pen to complete the declaration.

We need your response by August 31, 2011.

After you mail us your signed declaration, please call our office at (206) 622-1604, and ask to speak to Carrie Wilkinson. Our telephone number is registered with the telephone services utilized by Columbia County Jail. We have other questions for you. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

Katherine C. Chamberlain
Attorney, Licensed in Oregon and Washington

Enclosure(s)

PLNCOL-00739



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY CORRESPONDENCE

April 18, 2012

Rondo S Stimson
Columbia Co Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning legal publications

Dear Mr. Rondo S Stimson,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should be receiving your first sample issue shortly via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately.

At HRDC we take censorship very seriously and we rely almost exclusively on our incarcerated readers to inform us about which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhaust all available administrative remedies in an attempt to get them to release the material to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

Post Office Box 2420
West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00914



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY CORRESPONDENCE

April 18, 2012

Anthony Stratton
Columbia Co Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning legal publications

Dear Mr. Anthony Stratton,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should be receiving your first sample issue shortly via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately.

At HRDC we take censorship very seriously and we rely almost exclusively on our incarcerated readers to inform us about which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhaust all available administrative remedies in an attempt to get them to release the material to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

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West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00907



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

August 2, 2011
William Temple 2011000529
Columbia Co Jail
901 Port Ave
St Helens, Oregon 97501

RE: Correspondence concerning PLN literature

Dear Mr. Temple,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects. Unfortunately, sometimes prisons and jails unlawfully interfere with PLN's publication rights.

I have been informed that PLN gave you a complimentary six month subscription. You should be receiving your first sample issue shortly via first-class mail. PLN also sent you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above within the next few weeks, please write to me and let me know. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to my office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write in to request a free trial subscription. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00938



MACDONALD HOAGUE & BAYLESS
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Fax 206.343.3961

Alec Bayless (1921-1991)
Francis Hoague (1909-1983)

Kenneth A. MacDonald
Retired

Miguel A. Bocanegra
Andrea Brenneke
Katherine C. Chamberlain
Andrew T. Chan
Mel Crawford
Timothy K. Ford
Katrin E. Frank
Felicia L. Gittleman
Ester Greenfield
Elizabeth Poh
Amy M. Royalty
Joseph R. Shaeffer
David J. Whedbee
Jesse Wing

August 19, 2011

LEGAL MAIL

William Temple, 2011000529
Columbia County Jail
901 Port Avenue
St. Helens, OR 97051

Dear Mr. Temple :

We represent Prison Legal News (PLN), which publishes a monthly journal about prisoners' rights and distributes books about legal issues affecting prisoners. We are investigating whether the Columbia County Jail is censoring PLN's mail to you.

PLN sent the following mail to you at the Columbia County Jail in 2011:

- A. Three double-sided single-page informational brochures, enclosed together in one white standard envelope. Exhibit A is a copy of the three brochures:
 - 1. PLN Brochure and Subscription Order Form
 - 2. 2010 PLN Book List
 - 3. Brochure about two books for sale: (a) *The Habeas Citebook: Ineffective Assistance of Counsel* and (b) *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada*.
- B. A paperback book titled *Protecting Your Health & Safety* sent to you in a small brown cardboard box. The book is 325 pages. Exhibit B is a copy of the front and back cover of the book.
- C. *Prison Legal News's* 56-page monthly journal. Exhibit C is an example of the front and back cover of a *Prison Legal News* journal.

PLNOL-00764
www.mhib.com

William Temple, 2011000529
August 19, 2011
Page 2

Based on our investigation, we understand that you did not receive one or more of the items identified above. We would like to know whether that is correct and whether you received any of the other materials PLN sent to you at the Columbia County Jail. Also, if the Jail censored mail that PLN sent to you, we would like to know whether you received written notice from the Jail that mail addressed to you was rejected and not delivered to you.

Please review the enclosed Exhibits. Then, please read the enclosed declaration and indicate with a checkmark (✓) whether you received or did not receive the PLN mailings, and—if you did not receive one or more of the mailings—indicate with a checkmark (✓) whether you received or did not receive written notification that mail addressed to you was rejected by the Jail. Next, please fill in the dates you were a prisoner at the Columbia County Jail. Finally, please sign and date the declaration, state the city you signed in, and send the declaration to me (with the attached exhibits) in the enclosed self-addressed, postage pre-paid envelope. If possible, please use a pen to complete the declaration.

We need your response by August 31, 2011.

After you mail us your signed declaration, please call our office at (206) 622-1604, and ask to speak to Carrie Wilkinson. Our telephone number is registered with the telephone services utilized by Columbia County Jail. We have other questions for you. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

Katherine C. Chamberlain
Attorney, Licensed in Oregon and Washington

Enclosure(s)

98/0015 ch172201

PLNCOL-00765



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

February 23, 2011

Scott Thomas 2010002488
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning legal publications

Dear Mr. Thomas,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should already be in receipt of your first sample issue, which was sent via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. Additionally, please confirm that you wish to receive materials from Prison Legal News, including our magazine, books, pamphlets and other materials.

At HRDC we take censorship very seriously and we rely on our readers to determine which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00895



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

December 23, 2011

Timothy Turner 2011002227
Columbia County Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning PLN literature

Dear Mr. Turner,

I am an attorney for the Human Rights Defense Center (HRDC). I have been informed that you may have an interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects along with the distribution of books and other literature of interest to prisoners.

I have been informed that PLN gave you a complimentary six month subscription. You should have already received your first sample via first-class mail. PLN also sent you a packet of informational brochures in a regular sized envelope. Additionally, PLN mailed a book to you about prisoners' rights and the American legal system called *Protecting Your Health and Safety*.

I am writing to ask whether you have received each of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above please write to me and let me know. You should also be receiving a new issue of PLN every month for 6 months. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and inquiring about the reason for the censorship. If possible, please provide copies of those grievances and any other related documentation to my office. Finally, if you know of other prisoners there who might be interested in our publications and who might be incarcerated for more than just a few months, please share PLN's address with them and encourage them to write in and request free information with no obligation. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber, Esq.

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00931



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

February 23, 2011

Alisha Vandolah 2010002105
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning legal publications

Dear Ms. Vandolah,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should already be in receipt of your first sample issue, which was sent via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. Additionally, please confirm that you wish to receive materials from Prison Legal News, including our magazine, books, pamphlets and other materials.

At HRDC we take censorship very seriously and we rely on our readers to determine which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00878



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Karin E. Frank
Felicia L. Gittleman
Ester Greenfield
Elizabeth Poh
Amy M. Royalty
Joseph R. Shaeffer
David J. Whedbee
Jesse Wing

LEGAL MAIL

Alisha Vandolah, 2010002105
Columbia County Jail
901 Port Avenue
St. Helens, OR 97051

Dear Ms. Vandolah:

We represent Prison Legal News (PLN), which publishes a monthly journal about prisoners' rights and distributes books about legal issues affecting prisoners. We are investigating whether the Columbia County Jail is censoring PLN's mail to you.

PLN sent the following mail to you at the Columbia County Jail in 2011:

- a) Three double-sided single-page informational brochures, enclosed together in one white standard envelope. Exhibit A is a copy of the three brochures:
 - i) PLN Brochure and Subscription Order Form
 - ii) 2010 PLN Book List
 - iii) Brochure about two books for sale: (i) *The Habeas Citebook: Ineffective Assistance of Counsel* and (ii) *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada*.
- b) A paperback book titled *Protecting Your Health & Safety* sent to you in a small brown cardboard box. The book is 325 pages. Exhibit B is a copy of the front and back cover of the book.
- c) *Prison Legal News's* 56-page monthly journal. Exhibit C is an example of the front and back cover of a *Prison Legal News* journal.
- d) A one-page PLN subscription renewal letter, enclosed with a copy of the three informational brochures described above, in a white standard envelope. Exhibit D is a copy of the letter and brochures.

PLNCOL-00781
www.mhb.com

Alisha Vandolah, 2010002105
August 18, 2011
Page 2

Based on our investigation, we understand that you did not receive one or more of the items identified above. We would like to know whether that is correct and whether you received any of the other materials PLN sent to you at the Columbia County Jail. Also, if the Jail censored mail that PLN sent to you, we would like to know whether you received written notice from the Jail that mail addressed to you was rejected and not delivered to you.

Please review the enclosed Exhibits. Then, please read the enclosed declaration and indicate with a checkmark (✓) whether you received or did not receive the PLN mailings, and—if you did not receive one or more of the mailings—indicate with a checkmark (✓) whether you received or did not receive written notification that mail addressed to you was rejected by the Jail. Next, please fill in the dates you were a prisoner at the Columbia County Jail. Finally, please sign and date the declaration, state the city you signed in, and send the declaration to me (with the attached exhibits) in the enclosed self-addressed, postage pre-paid envelope. If possible, please use a pen to complete the declaration.

We need your response by August 31, 2011.

After you mail us your signed declaration, please call our office at (206) 622-1604, and ask to speak to Carrie Wilkinson. Our telephone number is registered with the telephone services utilized by Columbia County Jail. We have other questions for you. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

Katherine C. Chamberlain
Attorney, Licensed in Oregon and Washington

Enclosure(s)





Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY CORRESPONDENCE

April 18, 2012

Harley C Vandolah
Columbia Co Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning legal publications

Dear Mr. Harley Vandolah,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should be receiving your first sample issue shortly via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately.

At HRDC we take censorship very seriously and we rely almost exclusively on our incarcerated readers to inform us about which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhaust all available administrative remedies in an attempt to get them to release the material to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

Post Office Box 2420
West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00909



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

February 23, 2011

Jeffrey Vannatta 2011000104
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning legal publications

Dear Mr. Vannatta,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should already be in receipt of your first sample issue, which was sent via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. Additionally, please confirm that you wish to receive materials from Prison Legal News, including our magazine, books, pamphlets and other materials.

At HRDC we take censorship very seriously and we rely on our readers to determine which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00885



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

August 2, 2011
Robert Westmoreland 2011001188
Columbia Co Jail
901 Port Ave
St Helens, Oregon 97501

RE: Correspondence concerning PLN literature

Dear Mr. Westmoreland,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects. Unfortunately, sometimes prisons and jails unlawfully interfere with PLN's publication rights.

I have been informed that PLN gave you a complimentary six month subscription. You should be receiving your first sample issue shortly via first-class mail. PLN also sent you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above within the next few weeks, please write to me and let me know. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and exhausting all available administrative remedies available to you. If possible, please provide copies of those grievances and any other related documentation to my office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write in to request a free trial subscription. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00936



MACDONALD HOAGUE & BAYLESS
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Francis Hoague (1909-1993)

Kenneth A. MacDonald
Retired

Miguel A. Bocanegra
Andrea Brenneke
Katherine C. Chamberlain
Andrew T. Chan
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Karin E. Frank
Felicia L. Gittleman
Ester Greenfield
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Amy M. Royalty
Joseph R. Shaeffer
David J. Whedbee
Jesse Wing

August 19, 2011

LEGAL MAIL

Robert Westmoreland, 2011001188
Columbia County Jail
901 Port Avenue
St. Helens, OR 97051

Dear Mr. Westmoreland:

We represent Prison Legal News (PLN), which publishes a monthly journal about prisoners' rights and distributes books about legal issues affecting prisoners. We are investigating whether the Columbia County Jail is censoring PLN's mail to you.

PLN sent the following mail to you at the Columbia County Jail in 2011:

- A. Three double-sided single-page informational brochures, enclosed together in one white standard envelope. Exhibit A is a copy of the three brochures:
 1. PLN Brochure and Subscription Order Form
 2. 2010 PLN Book List
 3. Brochure about two books for sale: (a) *The Habeas Citebook: Ineffective Assistance of Counsel* and (b) *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada*.
- B. A paperback book titled *Protecting Your Health & Safety* sent to you in a small brown cardboard box. The book is 325 pages. Exhibit B is a copy of the front and back cover of the book.
- C. *Prison Legal News's* 56-page monthly journal. Exhibit C is an example of the front and back cover of a *Prison Legal News* journal.

PLNCOL-00807
www.mhfb.com

Robert Westmoreland, 2011001188
August 19, 2011
Page 2

Based on our investigation, we understand that you did not receive one or more of the items identified above. We would like to know whether that is correct and whether you received any of the other materials PLN sent to you at the Columbia County Jail. Also, if the Jail censored mail that PLN sent to you, we would like to know whether you received written notice from the Jail that mail addressed to you was rejected and not delivered to you.

Please review the enclosed Exhibits. Then, please read the enclosed declaration and indicate with a checkmark (✓) whether you received or did not receive the PLN mailings, and—if you did not receive one or more of the mailings—indicate with a checkmark (✓) whether you received or did not receive written notification that mail addressed to you was rejected by the Jail. Next, please fill in the dates you were a prisoner at the Columbia County Jail. Finally, please sign and date the declaration, state the city you signed in, and send the declaration to me (with the attached exhibits) in the enclosed self-addressed, postage pre-paid envelope. If possible, please use a pen to complete the declaration.

We need your response by August 31, 2011.

After you mail us your signed declaration, please call our office at (206) 622-1604, and ask to speak to Carrie Wilkinson. Our telephone number is registered with the telephone services utilized by Columbia County Jail. We have other questions for you. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

Katherine C. Chamberlain
Attorney, Licensed in Oregon and Washington

Enclosure(s)

3470.05 2011/7/20/1

PLNCOL-00808



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

March 12, 2012

Eric Wilcoxson 2011000522
Columbia County Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning PLN literature

Dear Mr. Wilcoxson,

I am an attorney for the Human Rights Defense Center (HRDC). You have been identified as someone who may have a need for the information provided by *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects along with the distribution of books and other literature of interest to prisoners at high risk of having their rights violated.

PLN has given you a complimentary six month subscription. This month you should expect to receive your first subscription issue and you should receive a new issue every month for 5 months thereafter. You should have already received your free introductory copy via first-class mail. PLN also sent you a packet of informational brochures in a regular sized envelope. Additionally, PLN mailed a book to you about prisoners' rights and the American legal system called *Protecting Your Health and Safety* as a free gift.

I am writing to investigate whether you have received each of these three (3) items which have all been mailed separately. At HRDC, we rely on prisoners to help protect PLN's First Amendment rights. If you have not received all three of the items mentioned above (or any of the monthly subscription issues) please write to me and let me know. I'm also interested in hearing about any other problems you've been experiencing with incoming or outgoing mail. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and inquiring about the reason for the censorship. If possible, please provide me with copies of those grievances. Finally, if you know of other prisoners who might be interested in PLN's publications and who will be incarcerated for several months or more, please share PLN's address with them and encourage them to write in and request a free subscription. Thank you in advance for your kind attention to this letter. I wish you well in your struggles and I look forward to hearing from you.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber, Attorney at Law

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00932



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY CORRESPONDENCE

April 18, 2012

Jon Wilke
Columbia Co Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning legal publications

Dear Mr. Jon Wilke,

I am an attorney for the Human Rights Defense Center (HRDC). Thank you for your interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects.

We have enrolled you for a free trial subscription. You should be receiving your first sample issue shortly via first-class mail. We are also sending you a packet of informational brochures under separate cover. Additionally, PLN mailed a book to you, *Protecting Your Health and Safety*. I am writing to ask for confirmation of your receipt of these three (3) items which have all been mailed separately.

At HRDC we take censorship very seriously and we rely almost exclusively on our incarcerated readers to inform us about which prisons and jails are interfering with our publication rights. If you have not received all three of the items mentioned above within the next few weeks, please write to us and let us know. If you receive a notice that any of our publications have been censored by staff, please consider filing a grievance and exhaust all available administrative remedies in an attempt to get them to release the material to you. If possible, please provide copies of those grievances and any other related documentation to our office.

Finally, if you know of other prisoners there who might be interested in our publications and who will be incarcerated for at least three (3) months, please share PLN's address with them and encourage them to write us to request a free trial subscription. We thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber
General Counsel

cc: Paul Wright

Post Office Box 2420
West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00911



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

December 29, 2011

Shaughnessy Williams 2011000534
Columbia County Jail
901 Port Ave
St Helens, Oregon 97051

RE: Correspondence concerning PLN literature

Dear Shaughnessy Williams,

I am an attorney for the Human Rights Defense Center (HRDC). I have been informed that you may have an interest in *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects along with the distribution of books and other literature of interest to prisoners.

I have been informed that PLN gave you a complimentary six month subscription. You should have already received your first sample via first-class mail. PLN also sent you a packet of informational brochures in a regular sized envelope. Additionally, PLN mailed a book to you about prisoners' rights and the American legal system called *Protecting Your Health and Safety*.

I am writing to ask whether you have received each of these three (3) items which have all been mailed separately. At HRDC we take censorship very seriously and we rely on prisoners to determine which prisons and jails are interfering with PLN's First Amendment rights. If you have not received all three of the items mentioned above please write to me and let me know. You should also be receiving a new issue of PLN every month for 6 months. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and inquiring about the reason for the censorship. If possible, please provide copies of those grievances and any other related documentation to my office. Finally, if you know of other prisoners there who might be interested in our publications and who might be incarcerated for more than just a few months, please share PLN's address with them and encourage them to write in and request free information with no obligation. Thank you in advance for your kind attention to this letter.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber, Esq.

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00933



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

CONFIDENTIAL LEGAL MAIL: ATTORNEY WORK PRODUCT

March 12, 2012

Joshua Young 2011002350
Columbia County Jail
901 Port Ave
St Helens, OR 97051

RE: Correspondence concerning PLN literature

Dear Mr. Young,

I am an attorney for the Human Rights Defense Center (HRDC). You have been identified as someone who may have a need for the information provided by *Prison Legal News* (PLN). Monthly publication of PLN is one of HRDC's projects along with the distribution of books and other literature of interest to prisoners at high risk of having their rights violated.

PLN has given you a complimentary six month subscription. This month you should expect to receive your first subscription issue and you should receive a new issue every month for 5 months thereafter. You should have already received your free introductory copy via first-class mail. PLN also sent you a packet of informational brochures in a regular sized envelope. Additionally, PLN mailed a book to you about prisoners' rights and the American legal system called *Protecting Your Health and Safety* as a free gift.

I am writing to investigate whether you have received each of these three (3) items which have all been mailed separately. At HRDC, we rely on prisoners to help protect PLN's First Amendment rights. If you have not received all three of the items mentioned above (or any of the monthly subscription issues) please write to me and let me know. I'm also interested in hearing about any other problems you've been experiencing with incoming or outgoing mail. If you receive a notice that any of PLN's publications have been censored by staff, please consider filing a grievance and inquiring about the reason for the censorship. If possible, please provide me with copies of those grievances. Finally, if you know of other prisoners who might be interested in PLN's publications and who will be incarcerated for several months or more, please share PLN's address with them and encourage them to write in and request a free subscription. Thank you in advance for your kind attention to this letter. I wish you well in your struggles and I look forward to hearing from you.

Very Truly Yours,
HUMAN RIGHTS DEFENSE CENTER

By: Lance T. Weber, Attorney at Law

cc: Paul Wright

PO Box 2420 West Brattleboro, VT 05303
Phone: 802-579-1309 Fax: 866-735-7136
Email: lweber@humanrightsdefensecenter.org

PLNCOL-00934

PRISON LEGAL NEWS

Dedicated to Protecting Human Rights

P.O. Box 2420, West Brattleboro, VT 05303— 802-257-1342

www.prisonlegalnews.org

pwright@prisonlegalnews.org

August 7, 2010

Alexander Yracheta # 2009003698

Columbia County Jail

901 Port Avenue

St. Helens, Oregon 97051

Dear Alexander,

I am the editor of *Prison Legal News*. I thought you might be interested in PLN.

Under separate cover I have sent you a sample copy of *PLN*; please confirm receipt of the magazine when it arrives. I have also started a free subscription to the magazine per your request. Under separate cover I am sending a copy of the book *Protecting Your Health & Safety*; write to confirm that you have received the book as well.

If you do not receive the magazines, book, or get a censorship notice please send it to me at the above address. If you have filed any grievances or appeals concerning censorship, please continue to send those and the responses to me as well. Send all further correspondence directly to me at the Vermont address above. I have reason to believe that the Columbia county jail censors publications such as ours.

If you know of other prisoners, who will be at the jail for at least six months and who are interested in getting a free subscription to *PLN* and a law book, ask them to write to me at the address above and I will start a subscription for them.

Thank you for your time and attention in this matter. I look forward to your reply.

In struggle,

Paul Wright, Editor
Prison Legal News

PLNCOL-00917



MACDONALD HOAGUE & BAYLESS
ATTORNEYS AND COUNSELORS AT LAW

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98104-1745

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Fax 206.343.3961

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Francis Hoague (1909-1993)

Kenneth A. MacDonald
Retired

Miguel A. Bocanegra
Andrea Brenneke
Katherine C. Chamberlain
Andrew T. Chan
Mel Crawford
Timothy K. Ford
Katrin E. Frank
Felicia L. Gittleman
Ester Greenfield
Elizabeth Poh
Amy M. Royalty
Joseph R. Shaeffer
David J. Whedbee
Jesse Wing

August 18, 2011

LEGAL MAIL

Alexander Yracheta, DOC# 15812228
Columbia River Correctional Institution
9111 NE Sunderland Avenue
Portland, OR 97211-1799

Dear Mr. Yracheta:

We represent Prison Legal News (PLN), which publishes a monthly journal about prisoners' rights and distributes books about legal issues affecting prisoners. We are investigating whether the Columbia County Jail censored PLN's mail to you.

PLN sent the following mail to you at the Columbia County Jail in 2011:

- A. Three double-sided single-page informational brochures, enclosed together in one white standard envelope. Exhibit A is a copy of the three brochures:
 - 1. PLN Brochure and Subscription Order Form
 - 2. 2010 PLN Book List
 - 3. Brochure about two books for sale: (a) *The Habeas Citebook: Ineffective Assistance of Counsel* and (b) *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada*.
- B. A paperback book titled *Protecting Your Health & Safety* sent to you in a small brown cardboard box. The book is 325 pages. Exhibit B is a copy of the front and back cover of the book.
- C. *Prison Legal News's* 56-page monthly journal. Exhibit C is an example of the front and back cover of a *Prison Legal News* journal.

PLNCOL-00824
www.mhb.com

Alexander Yracheta, DOC# 15812228
August 18, 2011
Page 2

Based on our investigation, we understand that you did not receive one or more of the items identified above. We would like to know whether that is correct and whether you received any of the other materials PLN sent to you at the Columbia County Jail. Also, if the Jail censored mail that PLN sent to you, we would like to know whether you received written notice from the Jail that mail addressed to you was rejected and not delivered to you.

Please review the enclosed Exhibits. Then, please read the enclosed declaration and indicate with a checkmark (✓) whether you received or did not receive the PLN mailings, and—if you did not receive one or more of the mailings—indicate with a checkmark (✓) whether you received or did not receive written notification that mail addressed to you was rejected by the Jail. Next, please fill in the dates you were a prisoner at the Columbia County Jail. Finally, please sign and date the declaration, state the city you signed in, and send the declaration to me (with the attached exhibits) in the enclosed self-addressed, postage pre-paid envelope. If possible, please use a pen to complete the declaration.

We need your response by August 31, 2011.

After you mail us your signed declaration, please call our office at (206) 622-1604, and ask to speak to Carrie Wilkinson. Our telephone number is registered with the telephone services utilized by the Oregon State DOC. We have other questions for you. Thank you.

Sincerely,

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

Katherine C. Chamberlain
Attorney, Licensed in Oregon and Washington

Enclosure(s)

9870.05 4/17/2011

PLNCOL-00825

inmate under investigation for letters with powder sent to Portland buildings



OregonLive.com

Everything Oregon

Jail inmate under investigation for letters with powder sent to Portland buildings

Published: Thursday, May 24, 2012, 5:37 PM Updated: Thursday, May 24, 2012, 10:03 PM



Bryan Denson, The Oregonian

By



[View full size](#)

Multnomah
County Sheriff

Andrew Barnett

The FBI is investigating a 31-year-old inmate for **a series of jailhouse mailings of mysterious white powder, including at least one to a federal prosecutor purporting to be anthrax and others to buildings around Portland**, according to court records made public Thursday.

Andrew L. Barnett, who is being held in the Columbia County Jail, was awaiting trial in the Justice Center Jail in Portland last August when he allegedly threw a mixture of urine and feces into the face of a sheriff's deputy, a superseding indictment alleges.

On April 26, Barnett allegedly mailed a letter to the prosecutor in his case -- Assistant U.S. Attorney Stephen Peifer --threatening him "with death by exposure to Anthrax," according to a search warrant application sworn out by the FBI on May 11. The papers accuse Barnett of mailing two previous threats to Peifer, one last December, another in February.

The latest letter (with a return address of "Barnett, Andrew") encouraged Peifer to snort the purported anthrax and concluded with a short statement, "I want you gone!!!!," according to an FBI affidavit.

Similar threatening letters were sent to six buildings in Portland in late April and early May, but testing of the powdery substance inside the envelopes showed the material was non-toxic, the FBI reported.

The bureau's search warrant was intended to obtain a DNA sample from Barnett and link him to the phony anthrax letters.

-- Bryan Denson

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1 Alan E. Wisotsky – State Bar No. 68051
 Jeffrey Held – State Bar No. 106991
 2 WISOTSKY, PROCTER & SHYER
 300 Esplanade Drive, Suite 1500
 3 Oxnard, California 93036
 Phone: (805) 278-0920
 4 Facsimile: (805) 278-0289
 5 E-Mail: jheld@wps-law.net

6 Attorneys for Respondent, ASSISTANT UNDERSHERIFF
 GARY PENTIS (sued and served as DOE 1) [EXEMPT FROM
 7 FILING FEE – GOV. CODE Section 6103]

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF VENTURA

10 In re STEVEN GARCIA, REANNA
 11 SANCHEZ, VICTORIA NINE, SARAH
 MURPHY McCOMACK, BROOKS BECK, on
 12 Habeas Corpus on behalf of themselves and all
 others similarly situated,

13 Petitioners,

14 vs.

15 CHIEF DEPUTY DAVID TENNESSEN, and
 16 DOES 1 through X, in their official capacity as
 jail administrators,

17 Respondents.
 18

CASE NO. MA-004-11

NOTICE OF COMPLIANCE WITH
 COURT'S PARTIAL UNSEALING ORDER

Judge: Rebecca S. Riley

Filed: January 26, 2011

Trial: None set

19 TO: MOVING PARTY, VENTURA COUNTY STAR BY IT'S COUNSEL OF RECORD,
 20 LAURA COTA AND TO PETITIONERS AND TO THEIR COUNSEL OF RECORD, MICHAEL
 21 McMAHON:

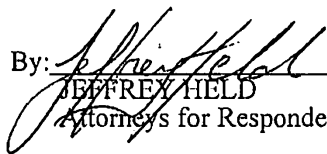
22 In accordance with Judge Riley's order of November 1, 2011, respondent now complies fully
 23 with that order. Respondent attaches hereto authentic photocopies of the formerly sealed declarations
 24 filed on March 9, 2011, redacted in accordance with Judge Riley's order. These redactions are to
 25 paragraph 3 of the declaration of Jerry Hernandez; paragraph 8(a) of the declaration of Aaron
 26 Wilkinson; the entirely unredacted declaration of Rob Davidson; the entirely unredacted declaration of
 27 Tracy Martinez; the entirely unredacted declaration of Jeffrey Held; and, the redacted declaration of
 28 an individual declarant whose identity was kept sealed by Judge Riley's November 1, 2011, order ,

1 those redacted paragraphs being paragraphs 3, 13, 14, 15, 16, 18 and 22.

2 In further compliance with Judge Riley's order, the sealed brief filed the same date as the
3 sealed declarations is appended hereto, with the remaining single redaction being the unnamed
4 declarant's name, found on page one, line 16.

5
6 Dated: November 10, 2011

7 WISOTSKY, PROCTER & SHYER

8
9 By: 
10 JEFFREY HELD
11 Attorneys for Respondent

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WISOTSKY, PROCTER, & SHYER
ATTORNEYS AT LAW
300 ESPLANADE DRIVE, SUITE 1500
OXNARD, CALIFORNIA 93036
TELEPHONE (805) 278-0920

1 Re: *In re Steven Garcia, et al. v. Chief Deputy David Tennesen*
 2 VCSC Case No. MA-004-11

3 DECLARATION OF SGT. ROB DAVIDSON

4 I, Sgt. Rob Davidson, declare as follows:

5 1. I make this declaration of facts based upon information
 6 which is personally known to me. If called to testify as a witness
 7 to the information contained in this declaration, I would compe-
 8 tently and accurately do so under penalty of perjury of the laws of
 9 the State of California.

10 2. I am the Legal Sergeant for the Ventura County Sheriff's
 11 Department, Detention Services Division. I have held that position
 12 continuously and full time since July of 2008. I have been a sworn
 13 peace officer since 1994. In my capacity as the Legal Sergeant, I
 14 am knowledgeable concerning jail operations, jail policies and
 15 practices, as well as records concerning the jail's inmate
 16 population.

17 3. On October 8, 2010, the Ventura County Sheriff's
 18 Department, Detention Services Division, adopted and implemented
 19 revised Article 36 of the Detention Services Division policy
 20 entitled "Inmate Mail Guidelines."

21 4. This policy limits incoming and outgoing inmate mail to
 22 postcards, no smaller than 4" x 6" and no greater than 6" x 11".
 23 An exception is made for privileged communication. Privileged mail
 24 is sometimes referred to as "confidential" or "legal mail." As a
 25 general description, privileged mail includes correspondence to and
 26 from privileged sources, such as lawyers, courts, and doctors.

27 / / /

28 / / /

1 Re: *In re Steven Garcia, et al. v. Chief Deputy David Tennesen*
2 VCSC Case No. MA-004-11

3 DECLARATION OF TRACY MARTINEZ

4 I, Tracy Martinez, declare as follows:

5 1. I make this declaration of facts based upon information
6 which is personally known to me. If called to testify as a witness
7 to the information contained in this declaration, I would compe-
8 tently and accurately do so under penalty of perjury of the laws of
9 the State of California.

10 2. I am employed by the Ventura County Sheriff's Department
11 in the capacity of Administrative Assistant in the Detention
12 Services Legal Unit. I have been so employed, continuously and
13 full time, for the last two and a half years.

14 3. I have been employed by the Ventura County Sheriff's
15 Department, continuously and full time, since 1993. Before that,
16 I worked for the Sheriff's Department from 1989 to 1992.

17 4. Between 1989 and 1991, I was assigned to the Detention
18 Services Division as a cadet in the mailroom. It was my job to
19 collect, locate, search, and sort inmate mail for all of the
20 Ventura County Sheriff's Department's custodial facilities.

21 5. In that capacity, I was trained to perform this job by
22 previous mail clerks, as well as sworn personnel.

23 6. In the performance of these duties, I discovered
24 narcotics concealed in the incoming mail.

25 7. These narcotics were concealed under postage stamps and
26 in the seams of envelopes.

27 8. The narcotics which I recognized were tar heroin.

28 / / /

1 9. In addition, I discovered suspicious, unknown substances,
2 such as blank sheets of paper which appeared to have been saturated
3 in some liquid so that there were water marks or spots which looked
4 like they had been wet at one time.

5 10. I disposed of all of these items.

6 11. While processing inmate mail in that job assignment, in
7 addition to narcotics, I located other items which were considered
8 contraband. These items could have jeopardized the safety and
9 security of our jail staff, as well as the inmates.

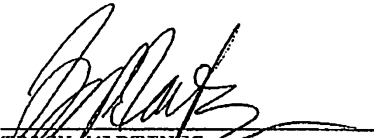
10 12. These items consisted of paperclips and staples.

11 13. These paperclips and staples which I occasionally dis-
12 covered while processing inmate mail, in my job assignment as a
13 cadet, could have been fashioned into handcuff or shackle keys.
14 Additionally, several of these small sharp metal objects could have
15 been linked together into a long metal object which could have been
16 utilized as a weapon.

17 I declare under penalty of perjury under the laws of the State
18 of California that the foregoing information is true and correct.

19 Executed this 10 day of February, 2011, at Ventura,
20 California.

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TRACY MARTINEZ

1 Re: *In re Steven Garcia, et al. v. Chief Deputy David Tennesen*
2 VCSC Case No. MA-004-11

3
4 DECLARATION OF JERRY HERNANDEZ

5 I, Jerry Hernandez, declare as follows:

6 1. I make this declaration of facts based upon information
7 which is personally known to me. If called to testify as a witness
8 to the information contained in this declaration, I would compe-
9 tently and accurately do so under penalty of perjury of the laws of
10 the State of California.

11 2. I am a captain employed by the Ventura County Sheriff's
12 Department. I have held that position continuously and full time
13 since 2001. I have been a sworn employee of the Ventura County
14 Sheriff's Department since 1985.

15 3.

16 4. In 1985, I was a deputy sheriff assigned to the women's
17 facility at the Branch Jail Honor Farm in Ojai, California. One of
18 my duties as a deputy in that position was to sort and examine mail
19 for contraband.

20 5. It was there that I was trained to identify methods by
21 which persons sent in contraband hidden in the mail. By "contra-
22 band," I mean either narcotics or narcotics containers.

23 6. I examined all forms of mail, including postcards,
24 envelopes, and letters.

25 7. During those times that I performed this duty, I found
26 drugs hidden under stamps or contained within the paper materials
27 in letters and both standard and manila envelopes.

28 / / /

1 8. Less frequently, I also discovered postcards which had
2 been modified by being split in two by a sharp object, such as a
3 razor blade, which were then glued back together with the contra-
4 band concealed inside.

5 9. I also examined Polaroids which were sent to inmates and,
6 as a matter of practice, removed the backing of the Polaroids to
7 search for drugs.

8 10. During that time, I found black tar heroin and LSD. I
9 also found other, unknown substances, which I discarded.

10 11. While I did not discover any sharp metal objects, such as
11 staples or paperclips, contained in the envelopes during my time in
12 that assignment, such objects would have fit in the same locations
13 in the envelopes. These sharp metal objects could have been used
14 to fashion handcuff keys or weapons.

15 12. It is imperative that jail facilities, such as the
16 Sheriff's Department operates, be as free as possible of contra-
17 band, such as drugs and sharp metal objects which can be fashioned
18 into handcuff and shackle keys and weapons. The attempted
19 smuggling of this contraband into jails has been a long-term
20 historical problem. Law enforcement needs to be able to examine
21 the containers in which mail arrives at the facility in order to
22 effectively interdict the supply of contraband into the jails which
23 we operate in order to enhance the safety and security of the
24 custodial staff, as well as the inmates; to prevent attempted

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1 escapes; and to prevent injuries, even death, from accidental
2 overdoses of drugs.

3 I declare under penalty of perjury under the laws of the State
4 of California that the foregoing information is true and correct.

5 Executed this 9th day of February, 2011, at Santa Paula,
6 California.

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JERRY HERNANDEZ

1 Re: *In re Steven Garcia, et al. v. Chief Deputy David Tennesen*
2 VCSC Case No. MA-004-11

3 DECLARATION OF

4 I, , declare as follows:

5 1. I make this declaration of facts based upon information
6 which is personally known to me. If called to testify as a witness
7 to the information contained in this declaration, I would compe-
8 tently and accurately do so under penalty of perjury of the laws of
9 the State of California.

10 2. I am currently employed by the Ventura County Sheriff's
11 Department as a sworn deputy. I have been so employed continuously
12 and full time since October 1, 1994, when I graduated from the
13 Ventura County Criminal Justice Training Center. I was promoted to
14 the rank of senior deputy in July of 2000.

15 3.

16
17 4. During that time, I was assigned to narcotics enforcement
18 for five years. I have testified as a narcotics expert in the
19 Ventura Superior Court. I have also testified in narcotics prose-
20 cutions in the Los Angeles Superior Court and in the federal
21 district court.

22 5. I have been involved in over 190 narcotics purchases and
23 the writing and execution of search warrants for narcotics-related
24 offenses.

25 6. As a detective, I have had contact with dozens of
26 narcotics users, dealers, and informants. During my conversations
27 with these individuals, I have gained an understanding of how drug

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1 sales, drug manufacturing, drug smuggling, and other illicit parts
2 of the narcotics trade occur.

3 7. Mail containers, such as manila envelopes, greeting
4 cards, and their envelopes, as well as conventional mail envelopes
5 and the papers which they contain, are being used to smuggle
6 narcotics and currency into custody facilities.

7 8. Having had the smuggling techniques demonstrated to me,
8 and having had hands-on experience utilizing these techniques, it
9 is my belief that other contraband could also be smuggled into a
10 custodial facility using these same techniques.

11 9. Such contraband could include metal wire, lithium,
12 gunpowder, and conceivably even plastic explosives.

13 10. During the fourth week of October of last year, I inter-
14 viewed a confidential reliable informant (hereinafter referred to
15 as "CRI"). The purpose of this meeting was to discuss and to have
16 CRI demonstrate for me how the mail was being used to smuggle
17 contraband, especially narcotics, into custody facilities.

18 11. Before my meeting with CRI, and with the permission of
19 the Ventura County Sheriff's Department, I obtained quantities of
20 crystal methamphetamine and tar heroin from the Sheriff's property
21 room (from adjudicated cases). Using the actual heroin and meth-
22 amphetamine, I asked CRI to demonstrate different techniques which
23 CRI has used to conceal narcotics within the letters and envelopes.

24 12. During CRI's demonstration, I had hands-on experience and
25 completed CRI's techniques for concealing the narcotics within
26 envelopes and letters.

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17. The methamphetamine was detectable using other scientific means.

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10 (f)

14 19. Once concealed, I was personally unable to detect the
15 heroin by feeling or manipulating the envelope. The tar heroin was
16 detectable by scientific means or by tearing the bottom flap of the
17 envelope.

18 20. During my discussions with informants in the past, I have
19 learned about underground economies within custody facilities.
20 These economies can compromise the security of the custody facility
21 by placing inmates in positions of authority and influence over
22 other inmates, by virtue of having valuable contraband, including
23 U.S. currency.

24 21. The currency in these economies includes paper money and
25 other items of value, such as narcotics. During my conversation
26 with CRI, CRI told me that CRI had participated in these
27 underground custody economies, using U.S. currency in the form of

28 / / /

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DECLARATION OF

1 paper money, almost always \$100 bills, concealed within the flaps
2 of envelopes.

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9 I declare under penalty of perjury under the laws of the State
10 of California that the foregoing information is true and correct.

11 Executed this 22 day of February, 2011, at Ventura,
12 California.

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1 Re: *In re Steven Garcia, et al. v. Chief Deputy David Tennesen*
2 VCSC Case No. MA-004-11

3 DECLARATION OF AARON WILKINSON

4 I, Aaron Wilkinson, declare as follows:

5 1. I make this declaration of facts based upon information
6 which is personally known to me. If called to testify as a witness
7 to the information contained in this declaration, I would compe-
8 tently and accurately do so under penalty of perjury of the laws of
9 the State of California.

10 2. I am currently employed by the Ventura County Sheriff's
11 Department as a classification deputy. I graduated from the
12 Ventura County Sheriff's Academy in September of 2006. I have been
13 employed continuously and full time since then. During that time
14 period, I have been assigned to the Pretrial Detention Facility.

15 3. In my capacity as a classification deputy, I have
16 received training in intelligence gathering, criminal street gang
17 activity, and prison gang activity. This training includes the
18 detection and evaluation of gang communications, prison politics,
19 and the use of symbols and codes (covert communications), which are
20 used by prisoners to avoid detection by jail staff.

21 4. I have served as a classification deputy for approxi-
22 mately three years. My assignment entails intelligence and infor-
23 mation gathering and evaluation, interviewing inmates, developing
24 confidential informants, and monitoring the overall activities and
25 conduct of those confined.

26 5. As part of my responsibilities, I frequently interact
27 with inmates and conduct searches of their housing locations and
28 any area to which prisoners have access within the Ventura County

1 detention facilities.

2 6. I also review incoming and outgoing mail, as allowed by
3 the Sheriff's Department's Policies and Procedures Manual. This
4 practice is designed to detect contraband, in addition to items
5 prohibited by jail rules and policies. It is also designed to
6 discover gang intelligence and intentions and to interdict gang
7 orders and directives which are intended to disrupt jail opera-
8 tions, assault inmates within our facilities, and/or intimidate
9 rival gang members as well as witnesses in criminal prosecutions.

10 7. Many of the operations undertaken have resulted in the
11 detection of the types of messages described in the previous para-
12 graph, as well as attempts to coordinate testimony, order the
13 destruction of evidence in criminal prosecutions, and generally
14 confound criminal investigators.

15 8. To illustrate the threats posed to the safety, security,
16 and orderly operation of our jail facilities, I provide the
17 following examples of contraband items discovered and gang intel-
18 ligence interdicted in the course of my responsibilities as a
19 deputy sheriff:

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6 (b) (1) I have also discovered razor blades hidden in
7 the flaps and creases of envelopes which are in prisoners' cells
8 during these same cell searches.

9 (2) These items pose a threat to the safety of the
10 guards and inmates in our jail facility, not only because of their
11 current possession by the inmate in custody, but also because it is
12 commonplace for inmates to mail envelopes out of the facility to
13 other inmates in higher security areas of the jail. By "higher
14 security," I mean inmates who pose increased security risks based
15 upon their current charged crime or past criminal conduct and/or
16 history.

17 9. For all of the reasons stated in this declaration, I
18 believe, based upon my training and experience as a classification
19 deputy, that the ability to send sealed correspondence from within
20 a locked detention facility greatly increased the likelihood that
21 the jail environment would become vulnerable to violent attacks and
22 criminal enterprises.

23 I declare under penalty of perjury under the laws of the State
24 of California that the foregoing information is true and correct.

25 Executed this SIXTH day of MARCH, 2011, at Ventura,
26 California.

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28 AARON WILKINSON

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DECLARATION OF AARON WILKINSON

1 Re: *In re Steven Garcia, et al. v. Chief Deputy David Tennesen*
2 VCSC Case No. MA-004-11

3 DECLARATION OF JEFFREY HELD

4 I, Jeffrey Held, declare as follows:

5 1. I am an attorney admitted to practice law before all the
6 courts of the State of California. I am employed as an attorney in
7 the Law Offices of Alan E. Wisotsky, counsel of record for respon-
8 dents Chief Deputy David Tennesen and Assistant Undersheriff Gary
9 Pentis.

10 2. I make this declaration based upon information which is
11 personally known to me. If called to testify as a witness to the
12 information contained in this declaration, I would competently and
13 truthfully do so under penalty of perjury of the laws of the State
14 of California.

15 3. On March 2, 2011, I personally researched multiple
16 dictionary definitions of the word "letter," in the sense of
17 correspondence. I conducted this research by actually examining
18 the hardbound dictionaries themselves and did not rely upon any
19 secondary sources to inform my understanding of the standard
20 meaning of the word "letter," in the sense of correspondence.

21 4. According to the Random House Webster's Unabridged
22 Dictionary (2d ed., 2001), the definition of a letter is "A written
23 or printed communication addressed to a person or organization and
24 usually transmitted by mail." This definition appears on page
25 1104. There is absolutely no reference to envelopes or sealed
26 containers whatsoever.

27 5. According to the Merriam-Webster's School Dictionary (no
28 edition, 2004), the definition of a letter is "A written or printed

1 message addressed to a person or organization." This definition
2 appears on page 546. There is no reference whatsoever to envelopes
3 or sealed containers within which the communication might be
4 enclosed.

5 6. According to the Concise Oxford English Dictionary (11th
6 ed. rev., 2008), page 818, a letter is defined as "A written, typed
7 or printed communication, sent by post or messenger." There is no
8 reference whatsoever to envelopes or containers within which the
9 communication might be enclosed.

10 7. According to the Oxford American Dictionary and Thesaurus
11 (2d ed., 2009), page 745, a letter is defined as "A written, typed,
12 or printed communication sent by mail or messenger." No reference
13 whatsoever is made to envelopes or containers.

14 8. According to the 1995 edition of Merriam-Webster's Desk
15 Dictionary, page 313, a letter means "A written or printed
16 communication." No reference whatsoever is made to envelopes or
17 containers.

18 9. According to Merriam-Webster's Collegiate Dictionary
19 (11th ed., 2009), page 713, a letter means "A direct or personal
20 written or printed message addressed to a person or organization."
21 There is no reference whatsoever to envelopes or containers.

22 10. According to the American Heritage Desk Dictionary (4th
23 ed., 2003), page 487, a letter means "A written or printed communi-
24 cation." No reference whatsoever is made to envelopes or containers.

25 11. According to the New American Webster Handy College
26 Dictionary (4th ed., 2006), page 419, a letter means "A written
27 communication." No reference whatsoever is made to envelopes or
28 containers.

1 12. Recent news coverage of smuggling of contraband into
2 jails and prisons has indicated that the problem sought to be
3 addressed by the Sheriff's Department's challenged mail policy is
4 one of great proportion. Multiple standard news accounts on
5 February 15, 2011, described a drug smuggling operation.

6 13. According to these news articles, five alleged members of
7 a Yuba County-based white supremacist gang were arrested on
8 February 14, 2011, on charges that they smuggled heroin into a
9 state prison by hiding the drug in the glue strips of envelopes.

10 14. In November of 2010, prison officials, in conjunction
11 with local police and the state Department of Justice, launched an
12 investigation dubbed Operation Forseti, named after the mythical
13 Norse god of justice. At that time, a Susanville prison guard
14 noticed a suspicious envelope sent to an inmate who is a member of
15 the New Order gang.

16 15. News accounts widely attributed a description of the
17 operation to current Attorney General, Kamala Harris.

18 16. Attorney General Harris told news reporters that an
19 analysis of an envelope revealed that its glue strip was laced with
20 heroin.

21 17. The news accounts further stated that in January of 2011,
22 investigators intercepted two more envelopes containing heroin sent
23 to two New Order members housed in the Susanville prison.

24 18. These envelopes contained nearly a gram of heroin. A
25 gram of heroin is worth \$500 in prison, which is about five times
26 the street value, according to Attorney General Harris.

27 19. Attorney General Harris was widely quoted in news
28 accounts published on February 15, 2011, as having stated the

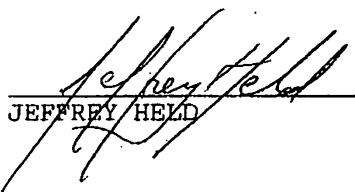
1 previous day, "Today's operation demonstrates the criminal
2 ingenuity of inmates and their associates outside of prison walls."

3 20. News accounts stated that the five gang members were
4 charged with conspiracy to distribute heroin within a prison. Five
5 inmates were also charged with a variety of violations.

6 21. According to Attorney General Harris, the interdiction
7 and seizure of these drug-containing envelopes provided probable
8 cause to search seven locations in the Yuba City area. During
9 those searches, two weapons, three grams of heroin, and a quarter
10 ounce of methamphetamine were confiscated.

11 I declare under penalty of perjury under the laws of the State
12 of California that the foregoing information is true and correct.

13 Executed this 9th day of March, 2011, at Ventura, California.

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16 JEFFREY HELD
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Case 2:11-cv-14039-KMM Document 73 Entered on FLSD Docket 04/25/2012 Page 1 of 29

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDACASE NO. 11-14039-Civ-MOORE
MAGISTRATE P. A. WHITE

OSCAR M. MARTINEZ, et al., :

Plaintiffs, :

v. :

PAUL C. MAY, SHERIFF, :

Defendant. :

REPORT OF
MAGISTRATE JUDGE

I. Introduction

This case stems from three, now consolidated, pro se civil rights actions brought pursuant to 42 U.S.C. §1983 (this case, and cases 11-14038-Civ-MOORE and 11-14045-Civ-MOORE) against the Okeechobee County Sheriff, by former Okeechobee County Jail ("OCJ") detainees (respectively, Oscar M. Martinez, Johnny R. Johnson, and David L. Reed), objecting to an OCJ outgoing mail policy which became effective on 2/1/2011. The new OCJ policy restricted non-legal, non-privileged outgoing inmate mail to correspondence using pre-franked postcards, obtainable by inmates through the OCJ commissary. Previously, outgoing non-legal, non-privileged inmate mail could be written on sheets of paper and sent via the U.S. Postal Service in envelopes bearing regular postage stamps.

The consolidated cases had a tortuous procedural history which is discussed below, in Section II of this Report, in order to place pending claims and motions in context and to clarify the present procedural posture of the case. In brief, the operative pleading is now the pro se Amended Complaint (filed at DE#28, in this case). **This Cause is before the Court upon two motions pending on the docket in this case: 1) a Motion for Summary Judgment by the Defendant Sheriff MAY (DE#48), as to which the plaintiffs were advised of their right to respond (See Orders of Instruction, Case 11-**

14045, DE#45; and Case 11-14039, DE#52);¹ and 2) a Summary Judgment

¹ As noted, *infra*, MAY, in fact, filed two virtually identical Summary Judgment motions on 10/11/211, one in Case 11-14045-Civ-KMM (DE#44, which was dismissed as moot upon consolidation of the cases), and the motion which remains pending in this Case 11-14039-Civ-KMM (DE#48). Pursuant to Brown v. Shinbaum, 828 F.2d 707 (11 Cir.1987), Orders of Instruction were entered (DE#45 in Case 11-14045-Civ-KMM, directed to plaintiff JOHNSON; and DE#52 in Case 11-14039-Civ-KMM, directed to Plaintiffs MARTINEZ and REED), to inform the Plaintiffs as *pro se* litigants, of their right to respond to Defendant MAY's motion(s) for summary judgment, and to provide them instruction regarding requirements under Fed.R.Civ.P. 56 for a proper response to such a motion.

Rule 56(c) of the Federal Rules of Civil Procedure provides that summary judgment is proper

[i]f the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact, and that the moving party is entitled to judgment as a matter of law.

In Celotex Corp. v. Catrett, 477 U.S. 317 (1986), the Court held that summary judgment should be entered only against

a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial. In such a situation, there can be 'no genuine issue as to any material fact,' since a complete failure of proof concerning an essential element of the non-moving party's case necessarily renders all other facts immaterial. The moving party is 'entitled to judgment as a matter of law' because the non-moving party has failed to make a sufficient showing on an essential element of her case with respect to which she has the burden of proof. (citations omitted)

Thus, in Celotex Corp. v. Catrett, 477 U.S. 317 (1986), the Court held that summary judgment should be entered only against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial. In such a situation, there can be 'no genuine issue as to any material fact,' since a complete failure of proof concerning an essential element of the non-moving party's case necessarily renders all other facts immaterial. The moving party is 'entitled to judgment as a matter of law' because the non-moving party has failed to make a sufficient showing on an essential element of her case with respect to which she has the burden of proof. (citations omitted). Thus, pursuant to Celotex and its progeny, a movant for summary judgment bears the initial responsibility of informing the court of the basis for his motion by identifying those parts of the record that demonstrate the nonexistence of a genuine issue of material fact. This demonstration need not be accompanied by affidavits. Hoffman v. Allied Corp., 912 F.2d 1379, 1382 (11 Cir.1990). If the party seeking summary judgment meets the initial burden of demonstrating the absence of a genuine issue of material fact, the burden then shifts to the nonmoving party, to

Motion by Plaintiff MARTINEZ (DE#49) in which neither plaintiff Reed or Johnson joined.

II PROCEDURAL BACKGROUND, AND CURRENT POSTURE OF THE CASE

Plaintiffs Reed, Martinez and Johnson, on 2/1/2011, separately submitted virtually identical *pro se* civil rights complaints pursuant to 42 U.S.C. §1983. See Reed v. May, 11-14038-Civ-Moore (DE# 1, by David L. Reed, then detained under OCJ #32376); Martinez v. May, 11-14039-Civ-Moore (DE#1, by Oscar M. Martinez, then detained under OCJ #33088); and Johnson v. May, 11-14045-Civ-Moore (DE#1, filed by Johnny R. Johnson, detained under OCJ# 06830).

[Note: Case 11-14045 was originally assigned to the Honorable Jose E. Martinez, United States District Judge. On 7/7/11, the matter was transferred to the Calendar of the Honorable K. Michael Moore, United States District Judge (see DE#23, in Case 11-14045-Civ-Moore); and the case subsequently was consolidated with this case (see DE#s 25-27 in Case 11-14045-Civ-Moore)].

The three original complaints (DE#1 in each case) sought only a permanent injunction, requiring Sheriff May to alter the OCJ mail policy "to allow inmates to freely send and receive personal

come forward with sufficient evidence to rebut this showing with affidavits or other relevant and admissible evidence. Avirgan v. Hull, 932 F.2d 1572, 1577 (11 Cir.), cert. denied, 112 S.Ct. 913 (1992). It is the nonmoving party's burden to come forward with evidence on each essential element of his claim sufficient to sustain a jury verdict. Earley v. Champion International Corp., 907 F.2d 1077, 1080 11 Cir.1990). The non-moving party cannot rely solely on his complaint and other initial pleadings to contest a motion for summary judgment supported by evidentiary material, but must respond with affidavits, depositions, or otherwise to show that there are material issues of fact which require a trial Fed.R.Civ.P. 56(e); Coleman v. Smith, 828 F.2d 714, 717 (11 Cir.1987). If the evidence presented by the nonmoving party is merely colorable, or is not significantly probative, summary judgment may be granted. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249-50 (1986); Baldwin County, Alabama v. Purcell Corp., 971 F.2d 1558 (11 Cir.1992). "A mere 'scintilla' of evidence supporting the opposing party's position will not suffice; there must be enough of a showing that the jury could reasonably find for that party." Walker v. Darby, 911 F.2d 1573, 1577 (11 Cir. 1990) (citing Anderson v. Liberty Lobby, Inc., supra).

correspondence in paged letter and stamped [sic] envelope form."

On 3/21/11, a Report (DE#10) in Case 11-14038-Civ-Moore recommended in part the consolidation of that case into Case 11-14039-Civ-Moore. On 4/22/11, Judge Moore adopted the Report and ordered consolidation of the two matters into Case 11-14039, and administrative closure of Case 11-14038. (DE#16, Case 11-14038-Civ-Moore).

A Motion by Plaintiff Reed, for leave to Amend, had been submitted for filing in Case 11-14038-Civ-Moore (DE#18), and pursuant to Judge Moore's Order (DE#19) the Clerk was directed to file the motion in Case 11-14039-Civ-Moore. Reed's Motion to Amend was docketed in Case 11-14039-Civ-Moore (at DE#16). A second Motion to Amend was filed by Reed in Case 11-14039 (DE#20). A Report was entered in Case 11-14039-Civ-Moore (DE#22) recommending that Reed be permitted to file a proposed amended complaint, to be filed by him, and also by plaintiff Martinez, if possible (but stating that the proposed amended pleading should not add individual capacity claims against May, or claims for punitive damages).

On 8/6/11, Plaintiffs Reed and Martinez, in Case 11-14039-Civ-KMM, jointly filed a proposed Amended complaint (DE#28). It sought a Declaratory Judgment stating that the OCJ Postcard only policy violates First Amendment Rights, and Injunctive relief in form of an order requiring an alteration of policy, to allow OCJ inmates' outgoing personal mail to be via paged letters in envelopes with self-purchased postage. The Amended Complaint also sought: costs; Nominal Damages; Compensatory Damages of \$50,000 per plaintiff; and "ANY OTHER RELIEF deemed just, proper, and equitable."

On 8/13/11 Johnson filed a Motion in Case 11-14045-Civ-Moore (DE#30) to adopt Plaintiff Martinez's Amended Complaint from Case 11-14039-Civ-Moore; and that motion was granted (Order DE#31). On 9/19/11 Johnson moved (Motion DE#38) for consolidation of his case (11-14045-Civ-Moore) with Case 11-14039-Civ-Moore. The Motion was

deferred for ruling by Judge Moore (Order, DE#40).

The Defendant May filed a Motion for Summary Judgment, in Case 11-14039-Civ-Moore, on 10/11/11 (DE#48).

On 10/11/11 May also filed a Motion for Summary Judgment in Case 11-14045-Civ-Moore (DE#44) that was virtually identical to his motion of the same date in Case 11-14039-Civ-Moore.

On 10/11/11 the Clerk received/docketed a 2-page Summary Judgment Motion and Memorandum by Plaintiff Martinez in Case 11-14039-Civ-Moore (DE#s 49 and 50, both dated 10/4/11). On 10/14/11 Defendant May filed his Response in Opposition (DE#51).

On 10/19/11 Plaintiff Johnson in Case 11-14045-Civ-Moore was advised by Order of Instruction (DE#45) of his right to oppose defendant May's Summary Judgment Motion in that case (DE#44); and on 10/19/11, in Case 11-14039-Civ-Moore the Plaintiffs Martinez and Reed were advised by Order of Instruction (DE#52) of their right to oppose defendant May's Motion for Summary Judgment (DE#48).

On 10/28/11 in Case 11-14039-Civ-Moore defendant Reed filed a Motion (DE#55) for extension of time to respond to May's summary judgment motion. The Motion was unopposed (DE#60), the extension was granted (Order DE#62), and Reed's Response (DE#68, dated 12/1/11) was filed in Case 11-14039-Civ-Moore.

In Case 11-14039-Civ-Moore Plaintiff Martinez also filed a Declaration (DE#64) and Response (DE#65) dated 11/28/11, in opposition to May's Motion (DE#48) for Summary Judgment; and Defendant May on 12/9/11 filed a Reply (DE#67) in support of his Motion.

In the interim, Plaintiff Reed, on 11/16/11, filed a Motion in Case 11-14045-Civ-Moore (DE#47) asking the court to Consolidate Case 11-14045-Civ-Moore with Case 11-14039-Civ-Moore, and to Defer

Ruling on Summary Judgment. Following a paperless Report and Recommendation in Case 11-14045-Civ-Moore (DE#49) on the Motion to Defer Ruling on the Summary Judgment motion, an Order was entered by Judge Moore on 12/30/12 (DE#51) denying the Motion to Defer ruling (DE#47). On 1/27/12 Judge Moore entered an Order (DE#52) Ordering consolidation of Case 11-14045-Civ-Moore into Case 11-14039-Civ-Moore, and further ruling that all pending motions in Case 11-14045 were denied, as moot.

At that juncture, all three matters had been consolidated into one Case [11-14039-Civ-Moore]; and the sole pending motions were May's Motion for Summary Judgment (DE#48) and Martinez's Motion for Summary Judgment (DE#49) in Case 11-14039-Civ-Moore. With respect to Motions, that remains the current posture of the case.

At the outset of each of the three §1983 actions (at DE#5, in each case), an Order of Instructions was entered advising each *pro se* plaintiff of essential requirements in his case, the first of which was (at ¶1 of each Order) that he must promptly file a Notice with the Clerk upon every and every change in his address. The Orders cautioned that failure to file a Notice may result in dismissal of the plaintiff's case for lack of prosecution (Order, ¶1), and further cautioned that it is the plaintiff's duty to serve upon the defendant, through counsel of record, a copy of each and every one of the plaintiff's filings. (Order, ¶3).

As noted, the Plaintiffs are no longer confined at the OCJ. Martinez filed a Notice dated 8/23/11 (Case 11-14039-Civ-Moore, DE#30) that he was transferred from OCJ to the Florida DOC (FDOC). Reed gave Notice on 9/28/11 that he was moved to the FDOC (Case 11-14039-Civ-Moore, DE#43); and Johnson filed a Notice dated 12/27/11 (Case 11-14045-Civ-Moore, DE#50) that he was in the FDOC.

Plaintiff Johnson's last filing was his 12/27/11 Notice (DE#50 in Case 11-14045-Civ-Moore) that he was FDOC prisoner #539459 at

Florida State Prison (FSP), in Raiford. In Case 11-14039-Civ-Moore, Martinez's last filings included his Notice dated 11/28/11, stating he was FDOC prisoner #H23078 at Suwannee CI Workcamp (SCI Workcamp), in Live Oak (DE#63); and Reed's last filing was his Notice dated 3/17/12, stating he was FDOC prisoner #K82661 at Columbia CI Annex (CCI Annex), in Lake City (DE#70). In conjunction with preparation of this Report, a review of public records maintained and published by the Florida DOC (the DOC's *Corrections Offender Network* at <http://www.dc.state.fl.us>) reveals that Reed remains at CCI Annex, with an estimated Release Date in November 2018; and that Johnson remains at FSP, with an estimated Release Date in June 2020; but that Martinez is no longer an FDOC prisoner, having been released to the street from SCI on 2/23/2012 [with a "Stated Residence Upon Release": 1117 11th Street East, Winter Haven, FL 33880]. The Clerk has updated Martinez's address on the CM/ECF docket in this case.

III Plaintiff Martinez, and His Motion (DE#49)

The record shows that Martinez's last filings were his Notice, Declaration and Response (DE#s 63, 64, 65), all dated 11/28/11 and docketed 12/1/11. Martinez has filed nothing in the case for more than 4½ months; it is 2 months since his release from Florida DOC custody, and he has filed no Notice of Change of Address, as required. It appears that he has abandoned his lawsuit.

It therefore appears that, as to Martinez, the amended complaint is properly subject to dismissal for lack of prosecution, and further, that dismissal of Martinez's pending Summary Judgment Motion (DE#49) would be appropriate under the circumstances, especially if Martinez files no Objections to this Report with the District Judge within the time allotted for him to do so.

Even if the Court were reticent to dismiss Martinez's case for lack of prosecution, and were to conclude that Martinez's pending Rule 56 Motion and Memo should be considered (DE#s 49, 50),

along with his Declaration and Response (DE#s 64, 65) opposing May's Rule 56 Motion, it is apparent that defendant May is entitled to summary judgment in his favor in this case based on May's showing made through his Motion (DE#48) and Attachments (DE#48-1).

IV The Plaintiffs' Complaints and Prayers for Relief

The plaintiffs' initial complaints (DE#1 in each case) sought only injunctive relief. The sole reason that their complaints did not become moot upon their transfers from the OCJ to the FDOC is the fact that Plaintiff Martinez's amended complaint [which Johnson and Reed adopted] included a prayer for Nominal Damages, which under the circumstances of this case, as it now stands, is the sole relief they could possibly receive if they prevailed on the merits.

1. The Plaintiffs' Transfers from the OCJ Mooted Their Claims for Declaratory and Injunctive Relief

Here, where there was no class certification, and there is nothing to suggest that the three plaintiffs might soon be returned to confinement in Okeechobee County at the OCJ,² their prayers for injunctive and declaratory judgment were mooted upon their transfer from the OCJ to the FDOC. See Spears v. Thigpen, 846 F.2d 1327, 1328 (11 Cir.1988) (holding that absent Class Certification, an inmate's claim for injunctive and declaratory relief in a Section 1983 action fails to present a case or controversy once the inmate has been transferred) (citing Whal v. McIver, 773 F.2d 1169, 1173 (11 Cir. 1985)); Tucker v. Phyfer, 819 F.2d 1030, 1035 (11 Cir.1987) (claim of prisoner seeking declaratory relief regarding conditions in which he was held as a juvenile became moot when he reached the age of majority); Zatler v. Wainwright, 802 F.2d 397,

² FDOC records indicate that Reed and Johnson, respectively, will likely be incarcerated for 6 years and 18 years beyond the present; and the records indicate that when Martinez was released from the FDOC, it was upon expiration of sentence, and he was released not with an address in Okeechobee County, but rather an address in Winter Haven, which is located in Polk County, Florida.

399 (11 Cir.1986) (inmate's release from prison mooted claim for declaratory and injunctive relief); Cotterall v. Paul, 755 F.2d 777, 780 (11 Cir.1985) (past exposure to even illegal conduct does not in and of itself show a pending case or controversy regarding injunctive relief if unaccompanied by any continuing present injury or real and immediate threat of repeated injury); McKinnon v. Talladega County, 745 F.2d 1360, 1365 (11 Cir.1984) (inmate's transfer to a different jail moots claim for declaratory and injunctive relief); Dudley v. Stewart, 724 F.2d 1493, 1494 (11 Cir.1984) (transfer from county jail to state prison mooted claims for injunctive and declaratory relief against county jailers).

2. Plaintiffs' Claims for Compensatory Damages Are Foreclosed, and the Amended Complaint Can Proceed Solely as a Result of Plaintiffs' Prayer for Nominal Damages

Insofar as the plaintiffs in their amended complaint have included a prayer for \$50,000 in Compensatory Damages per plaintiff, they are entitled to no such relief. Their complaint, as amended, asserts a First Amendment claim, with no associated physical injury. The claim for compensatory damages is foreclosed under Title 42 U.S.C., Section §1997e(e), as part of the Prison Litigation Reform Act of 1995 ("PLRA"). Section 1997e(e), provides that no federal civil action may be brought by a prisoner for mental and emotional injury suffered while in custody without a prior showing of physical injury. The Courts of this Circuit have held, for purposes of §1997e(e), that a prisoner must show a physical injury which is more than *de minimis*, although it need not be significant, Harris v. Garner, 190 F.3d 1279, 1286-87 (11 Cir.1999), reh'g en banc granted and opinion vacated, 197 F.3d 1059 (11 Cir.1999), opinion reinstated in pertinent part *en banc*, 216 F.3d 970, 984-85 (11 Cir.2000); and the Courts have held that absent such a showing the prisoner/plaintiff may not recover compensatory or punitive damages for mental or emotional injury. See Al-Amin v. Smith, 637 F.3d 1192, 1198 (11 Cir. 2011) (holding, that in a case where a

First Amendment deprivation, but no physical harm, is alleged, compensatory and punitive damages are precluded under the PLRA) (citing Napier v. Preslicka, 314 F.3d 528, 531 (11 Cir.2002); Slicker v. Jackson, 215 F.3d 1225, 1229 (11 Cir. 2000) (actual injuries required for compensatory damages); Osterback v. Ingram, No. 3:96CV580/LAC/SMN, 2000 WL 297840 at *10, 13 Fla. L. Weekly D 133 (N.D.Fla.2000), aff'd. 263 F.3d 169 (11 Cir.2001) (Table), cert. denied, 536 U.S. 906 (2002) (without more than a *de minimis* injury, compensatory or punitive damages not recoverable).

The absence of physical injury, however, would not necessarily foreclose the plaintiffs from recovering nominal damages if they were to prevail in the case. Al-Amin, supra, 637 F.3d at 1198; Hughes v. Lott, 350 F.3d 1157, 1162 (11 Cir.2003) (holding §1997e(e) does not bar suits by prisoners who have not alleged a physical injury if they seek nominal damages). See Memphis Community School District v. Stachura, 477 U.S. 299, 308-309, n.(1986) (noting that nominal damages are an appropriate means of "vindicating" rights whose deprivation has not caused actual, provable injury).

Here, therefore, because of their request for Nominal Damages, the plaintiffs' amended complaint is subject to scrutiny.

V THE PLAINTIFFS' CLAIMS, AND THE PARTIES' OPPOSING MOTIONS FOR SUMMARY JUDGMENT, AND RESPONSIVE FILINGS

The gravamen of the Plaintiffs' amended complaint (DE#28) is the claim that, effective 2/1/2011, Sheriff May instituted a new inmate mail policy, which in pertinent part provides that all outgoing personal inmate mail was to be restricted to correspondence written on pre-stamped postcards, made available through the jail's canteen/commissary. [The policy also restricts incoming non-legal/non-privileged mail to postcards,³ but the three plaintiffs

³ See Inmate Mail SOP#422.00, §IV.A.1 (at DE#48-1, p.12).

in their amended complaint in this case complain only about their personal outgoing mail being restricted to postcards]. The plaintiffs complain that prior policy allowed inmates' personal correspondence to be written on sheets of paper, mailed in self-stamped envelopes. They claim that they were informed by the Jail Administrator, Ronnie White [not designated here as a defendant], that the reasons for the new policy were financial and security concerns, and that with regard the financial concerns outgoing "indigent mail" at the OCJ sent by those unable to afford their own stamps was costing the Okeechobee County Sheriff's Office nearly \$10,000 per year. The plaintiffs state that they were among 21 inmates who on 1/18/11 signed a petition for alteration of the new mail policy. In the Amended Complaint they state that they asked that the postcard only rule for outgoing mail be changed to permit those inmates who supply their own postage to send out paged letters in stamped envelopes, using stamps available for purchase at the jail canteen. [A copy of that petition is attached to each of the plaintiff's original complaints, as Ex.A-1]. The plaintiffs further indicate that David Reed, "for the Inmates of the Okeechobee County Jail," sent a 1/24/11 letter to Sheriff May, advising that his failure to "reach some resolution regarding the issue" would result in suit by Reed and other inmates in federal court, challenging the new policy as unconstitutional. The plaintiffs indicate that the letter of 1/24 was never answered, and that the postcard only policy took effect on 2/1/11.⁴

⁴ Martinez in his Declaration (DE64) states that he and others were verbally told that if they did not like the reasons given for the policy, they could file grievances, and he states that the petition and letter followed.

If the plaintiffs' letter and petition were to be liberally construed as an inmate grievance or grievances, their contention that the letter and petition were ignored, or not answered, does not itself state a claim for relief. The Constitution does not entitle prisoners and pretrial detainees in state or federal facilities to grievance procedures, Adams v. Rice, 40 F.3d 72, 75 (4 Cir.1994), cert. denied 514 U.S. 1022, 115 S.Ct. 1371, 131 L.Ed.2d 227 (1995); Buckley v. Barlow, 997 F.2d 494, 495 (8 Cir.1993); Flick v. Alba, 932 F.2d 728, 729 (8 Cir.1991); Stewart v. Block, 938 F.Supp. 582, 588 (C.D.Cal.1996); Brown v. Dodson, 863 F.Supp. 284, 285 (W.D.Va.1994); and since even if a grievance mechanism has been created for the use of states inmates the mechanism involves

The plaintiffs Martinez, Reed, and Johnson claim that the new mail policy unnecessarily restricts their rights secured under the First Amendment, arguing that "there is no legitimate institution interest in the restriction of this right by confining inmates' outgoing correspondences to postcards only." They argue that since the jail regularly sends inmates' outgoing legal mail in "paged letter and self stamped form," submitted unsealed for the purpose of inspection, it would "pose no significant burden on the jail effeciant [sic] operation of the institution" if they were allowed [as requested in their prayer for relief] "to send outgoing personal correspondence on paged letters and in envelopes with self applied and purchaced [sic] postage."

The defendant May, through his Motion for Summary Judgment (DE#48), and Affidavit (Ex.A, DE#48-1) with attached copy of the new Mail Policy, SOP# 422.00, effective on the 2/1/11 date of distribution (Ex.A-1, at DE#48-1), proffers the following evidence. The average daily OCJ population is 225-235 inmates with an average stay of 6 months. The jail employs 78 staff members. To accommodate vacations and other work absences, there are 10 employees on duty for each shift (8 Corrections Officers, and 2 civilians); and mail is typically processed both during daytime and nightttime shifts. During the day, the 2 civilians staff the commissary, and process outgoing mail. There are about 100 pieces of outgoing mail per day. May states that "in addition," there are 8-10 pieces of outgoing legal mail per day. May indicates that before the postcard only

a procedural right, not a substantive one, and it does not give rise to a liberty interest protected by the Due Process Clause, Antonelli v. Sheahan, 81 F.3d 1422, 1430 (7 Cir.1996); Hoover v. Watson, 886 F.Supp. 410, 418 (D.Del.1995); Brown v. Dodson, supra at 285; and thus, if the state elects to provide a grievance mechanism, violations of its procedures, or even a failure to respond to the prison grievance, do not give rise to a §1983 claim, Buckley v. Barlow, supra, 997 F.2d at 495; Hoover v. Watson, supra, 886 F.Supp. at 418-19. When the claim underlying the administrative grievance involves a constitutional right, the prisoner's right to petition the government for redress is the right of access to the courts, which is not compromised by the prison's refusal to entertain his grievance. Flick v. Alba, supra, 932 F.2d at 729. Here, the plaintiffs have had access to the courts though their bringing of this lawsuit.

policy, about \$10,000 per year was spent by the jail providing stamps to indigent inmates, an estimate derived based on the cost of each stamp costing 44¢. It was determined that this cost to the jail could be significantly reduced if the jail changed its policy, to allow inmates' outgoing personal mail to be sent only on postcards that are pre-franked at 24¢ each, a 20¢ savings on postage.⁵

Sheriff May, in his Affidavit, further states that concerns regarding security and orderly operation of the jail were also an underlying reason for the mail policy change. May, through his Affidavit, supported by attached exhibits, cites various examples of how conversion to the postcard only policy was hoped to serve those institutional/governmental needs.

Specifically, May states that, previously, inmates who could afford them were allowed to purchase 44¢ stamps by the book at the commissary, and that had led to disruption of orderly operation of the jail system, because availability of stamps by the book led to their use as "a form of currency" by inmates, and sometimes led to fights and other inappropriate behavior including sexual activity. May, without detailed statistics, states that use of postcards has reduced the number of known incidents of bartering.

May states that the postcard only policy has reduced the number of other types of incidents/abuses impacting on security and orderly jail operations, and cites exhibits attached to his Affidavit as supporting evidence. These include, *inter alia*, inmates

⁵ Regardless of whether the 8-10 pieces of legal mail are included within the cited total of 100 pieces of outgoing mail [so that 90-92 are non-legal], or whether the legal mail is in addition to the 100 pieces [for a daily total of 108-110 pieces] the cost for indigent mail [\$10,000 per year, as cited by Sheriff May], is significant. Even if May's statistics cited in his affidavit were interpreted to mean that about 9% of the outgoing indigent mail costing the OCJ \$10,000 per year was non-legal, it would appear that the cost to the institution for the other 91%, presumably personal in nature, would have been about \$9,100 per year, still a significant expense.

writing in sophisticated code to communicate with gang members [see Ex.A-3]; inmates addressing envelopes to relatives, but sending therein written communications of a threatening nature for the relatives to forward to other persons with whom the inmate is forbidden to communicate, including victims [or others in violation of restraining orders], or a witness the inmate seeks to pressure to drop charges [see Ex.A-2]. In addition, Sheriff May states that depriving inmates of envelopes for outgoing personal mail has reduced incidents in which inmates obtain cash from jail staff as part of illegal or inappropriate behavior, and then use an outgoing envelope to send the contraband money via mail to their families.

Sheriff May also cites the use of outgoing mail to communicate with other inmates, by putting another inmate's name and address as the return address on an envelope, and sending it to a fictitious address, so that when it is returned as undeliverable, the envelope goes not to the inmate who mailed it, but to the other inmate whose name was illegally placed in the return address on the envelope. [see Ex.A-4]. May acknowledges that even the switch to postcards has not entirely eradicated this forbidden activity, as the same thing can be done with a postcard.

Among Sheriff May's Exhibits is a staff Memo dated 1/14/11 [Ex.A-5], indicating that as part of the new no-envelope/postcard-only policy [effective 2/1/11] inmates are not to be given envelopes except for legal purposes, and that they are not to be given cards (for Birthdays, holidays, etc.), envelopes, or stamps.

Sheriff May cites two other examples of inmate mail-related activities that are chilled by the use of postcards. [While it would appear that these examples do not directly impact on institutional security, as other cited examples might, they are, according to May, impermissible behavior]. May cites inclusion by inmates of explicit sexual drawings in mail sent via envelope; and he cites a second example, that inmates used to tear plastic bags

into strips [a destruction of jail property] and make woven objects such as crosses to mail to persons outside the jail.

Sheriff May notes in his affidavit, with supporting exhibit [Ex.A-1], that inmates' outgoing legal mail is not affected by the new policy. In his affidavit May states that the policy denying use of envelopes [and requiring postcards] serves two security-related purposes: that illegal activity will be more easily detected, and that attempts of inmates to engage in illegal activity will be chilled. [See Affidavit, stating: "Because postcards do not require the use of an envelope, it is much more likely that attempts to breach security through the use of an envelope will be detected by staff or not even attempted by an inmate."].

Presumably, outgoing mail inspection would go more quickly under the new policy, because inspection of postcards would be easier than inspecting voluminous numbers of envelopes to ensure nothing impermissible was hidden inside. In the instant case, from a plain reading of May's affidavit, it is not clear that any time saved by easier [more rapid] inspection of 100 pieces or more of outgoing mail per day would have the benefit of freeing up staff assigned to inspect mail, so that they could devote more time to other, security-related, assignments.⁶ This is because Sheriff May explicitly states that there are 2 civilians on each shift, and that "during the day shift, the two civilian employees, who are assigned to the commissary, process all outgoing mail." Sheriff May states that there are 8 Corrections Officers on each shift. May does not make clear whether Corrections officers are involved in

⁶ Defendant May's Motion (DE#48, at pp.19-20) cites an Arizona district court case, Covell v. Arpaio, 662 F.Supp.2d 1146 (D.Ariz. 2009) (a First Amendment case in which the policy that was being challenged had restricted *incoming* mail to metered postcards, and an analysis using the deferential reasonableness standard from Turner v. Safely, 482 U.S. 78 (1987) was employed). Here, Sheriff May cites the Covell Court decision, and argues that "the court noted that eliminating stamped mail allowed the jail's limited security staff to devote more time to prison security assignments."

mail processing/inspection; and he does not indicate that the 2 civilians on each shift in any way engage in, or may engage in, security related activities [apart from the benefit that inmate mail inspection, as permitted under the law, makes the jail environment a safer one].

May nonetheless argues in his Motion [as he indicated in his Affidavit], that the postcard only policy chills forbidden or illegal mail-related actions by inmates, reducing the number of attempts [because inmates perceive that the risk of detection is increased when use of envelopes is forbidden]. May correctly notes that outgoing mail has always been subject to inspection, for security reasons, if necessary. At the same time, May argues that the postcard only policy is not itself a form of censorship of outgoing mail, insofar as the inmates are not told what lawful content they may include in their outgoing mail. He argues that the policy only restricts the amount of space per mailing on which inmates can write such permissible content in each mailing. He notes that inmates who are not indigent may purchase as many postcards as they wish in order to send additional content to desired recipients; and notes that even indigent inmates, in addition to free envelopes and stamps for legal mail, are allowed two free pre-franked postcards per week on which to write outgoing non-legal/non-privileged personal communication.

Fiscal concerns, like security concerns, have been held by the Courts to be legitimate penological interests even in First Amendment cases decided pre-Turner under the "least restrictive means" test. See Martinelli v. Dugger, 817 F.2d 1499, 1506-1507 (11 Cir.1987),⁷ cert. denied, 484 U.S. 1012 (1988) (prison authorities can make reasonable attempts to balance a prisoner's freedom of religion with the goal of avoiding excessive administrative

⁷ Martinelli was decided on June 1, 1987, the same day as Turner.

expense); Bach v. Coughlin, 508 F.2d 303, 307-308 (7 Cir.1974) (prison authorities can make reasonable attempts to balance a prisoner's right of access to the courts with prison budgetary considerations); Walker v. Blackwell, 411 F.2d 23, 26 (5th Cir.1969) (considerations of administrative expense outweigh prisoner's right to a religious diet).

More recently, in a case raising religious dietary claims, the Eleventh Circuit found that budgetary concerns, and containment of costs were a compelling governmental interest. See Muhammad v. Sapp, No. 09-14943, 388 Fed.Appx. 892, 897, 2010 WL 2842756 at *3 (11 Cir. July 21, 2010) (denying inmate claim under the RLUIPA in which inmate sought strict adherence to kosher practices, finding cost containment and budgetary concerns were compelling governmental interests, and citing with approval, Baranowski v. Hart, 486 F.3d 112, 125-26 (5th Cir.2007) (holding budgetary and security concerns were a compelling governmental interest justifying the failure to provide kosher meals to a Jewish inmate)). The Eleventh Circuit, in Muhammad v. Sapp, *supra*, also citing Martinelli v. Dugger, 817 F.2d 1499 (11 Cir.1987), further stated, as follows:

We addressed a prisoner's First Amendment challenge to a prison's dietary regulations in Martinelli v. Dugger, 817 F.2d 1499 (11th Cir.1987), abrogation recognized by Harris v. Chapman, 97 F.3d 499, 503 (11th Cir.1996). In that case, an inmate brought a §1983 action against corrections officials. He argued that the prison's refusal to honor his request for a full kosher diet infringed upon his First Amendment rights. *Id.* at 1501. Applying the "least restrictive means" test, we concluded that the prison's dietary regulations were "rationally related to the goal of avoiding excessive administrative expense" because the defendants presented evidence that providing full kosher meals would be too costly. *Id.* at 1506-07 & 1506 n. 25. After this Court decided Martinelli, the Supreme Court held

that "prison regulations alleged to infringe constitutional rights are judged under a 'reasonableness' test" - not the more stringent least restrictive means test that we had applied. See O'Lone v. Estate of Shabazz, 482 U.S. 342, 349, 107 S.Ct. 2400, 2404, 96 L.Ed.2d 282 (1987). (explaining that the reasonableness test was necessary "[t]o ensure that courts afford appropriate deference to prison officials").

The FDOC submitted an affidavit establishing that complying with Muhammad's dietary requests was too costly because it would require the operation of special kitchens or food preparation facilities. Under those circumstances and in light of Martinelli, we cannot say that it would be it obvious to all reasonable correctional officials that denying Muhammad's dietary *899 request violated federal law. See Crawford [v. Carroll], 529 F.3d 961, 977-78 (11 Cir. 2008)]. Accordingly, we conclude that the defendants were entitled to qualified immunity on that claim.

Muhammad v. Sapp, supra, 388 Fed.Appx., at 898-99, 2010 WL 2842756, at *5.

Under the First Amendment to the United States Constitution, prison inmates have not only a right of access to the courts,⁸ but also a right to freedom of expression which includes the right to send and receive mail. This right must be balanced against the authority of jail or prison officials to maintain institutional order and security, which generally is accomplished through inspection, and if necessary censorship and/or withholding of inmate/prisoner mail, or seizure of contraband. See generally, Thornburgh v.

⁸ Jail inmates have a right under the First Amendment to have their attorney mail, both incoming and outgoing, opened only in their presence. Al-Amin v. Smith, 511 F.3d 1317, 1331-34 (11 Cir.2008) (holding that the Circuit's prior holding in Taylor v. Sterrett, 532 F.2d 462 (5 Cir.1976); and Guajardo v. Estelle, 580 F.2d 748 (5 Cir.1978), that incoming legal mail from an inmate's attorneys, properly marked as such, may be opened only in the inmate's presence and only to inspect for contraband, was not changed by Turner v. Safley)).

Abbott, 490 U.S. 401, 407 (1989); Turner v. Safley, 428 U.S. 78, 89 (1987); Wolff v. McDonnell, 418 U.S. 538, 575-77 (1974); Procunier v. Martinez, 416 U.S. 396, 412-13 (1974), over ruled in part by Thornburgh, *supra*, 490 U.S. 401, 411-414 (overruling Martinez to the extent that the case distinguished incoming mail from prisoners versus incoming mail from non-prisoners in determining the appropriate standard of review). The federal courts accord substantial deference to prison administrators to regulate prisoner mail where necessary to preserve important penological interests. Thornburgh, 490 U.S. at 407-08; Procunier v. Martinez, 416 U.S. at 404-05. The First Amendment right of prisoners to send and receive mail "must be exercised with due regard for the 'inordinately difficult undertaking' that is modern prison administration." Thornburgh, 490 U.S. at 407 (quoting Turner, 482 U.S. at 85).

The Eleventh Circuit, however, has held that the Supreme Court's Procunier v. Martinez standard for the censorship of prisoner mail applies to prison regulations involving outgoing mail; while regulations affecting the sending of mail to prisoners must be analyzed under the reasonableness standard established in the Court's Turner v. Safely decision. Perry v. Secretary, Florida Dept. of Corrections, 664 F.3d 1359, 1364-65, n.1 (11 Cir. 2011).

The Eleventh Circuit, in Perry explained, as follows:

In Turner v. Safley, the Supreme Court considered regulations on inmate-to-inmate correspondence and inmate marriages. 482 U.S. 78, 81, 107 S.Ct. 2254, 2257, 96 L.Ed.2d 64 (1987). After thoroughly discussing its precedent, the Court held that "when a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests." Id. at 89, 107 S.Ct. at 2261. The Court also set out a series of factors gleaned from Pell, Jones, and Bell to help courts in determining the reasonableness of a regulation: (1) whether there

is "a valid, rational connection between the regulation and the prison legitimate governmental interest;" (2) "whether there are alternative *1365 means of exercising the right;" (3) "the impact accommodation of the asserted constitutional right will have on guards and other inmates, and on the allocation of prison resources;" and (4) "the existence of obvious, easy alternatives[, which] may be evidence that the regulation is not reasonable, but is an exaggerated response to prison concerns." *Id.* at 89-90, 107 S.Ct. at 2262 (citations and internal quotation marks omitted). Using these factors, the Court upheld the regulations on inmate-to-inmate correspondence but rejected the regulation on inmate marriages. *Id.* at 81, 107 S.Ct. at 2257. Finally, the Supreme Court limited Martinez to regulations involving only outgoing mail and held that regulations affecting the sending of mail to prisoners be analyzed under the standard established in *Turner*.FN1 *Thornburgh*, 490 U.S. at 413-14, 109 S.Ct. at 1881-82.

FN1. The Court specifically stated:
 [W]e acknowledge today that the logic of our analyses in Martinez and Turner requires that Martinez be limited to regulations concerning outgoing correspondence [O]utgoing correspondence was the central focus of our opinion in Martinez. The implications of outgoing correspondence for prison security are of a categorically lesser magnitude than the implications of incoming materials. Any attempt to justify a similar categorical distinction between incoming correspondence from prisoners ... and incoming correspondence from nonprisoners would likely prove futile To the extent that Martinez itself suggests such a distinction, we today overrule that case

Thornburgh, 490 U.S. at 413-14, 109 S.Ct. at 1881-82.

Perry, 664 F.3d 1359, 1364-65, n.1 (11 Cir. 2011).

A prison [or jail] regulation regarding outgoing inmate correspondence must be "generally necessary" to a legitimate governmental interest. Thornburgh, 490 U.S. at 411 (interpreting Martinez, 416 U.S. 396, 94 S.Ct. 1800, 40 L.Ed.2d 224); Spradley v. Sistrunk, Case No. 2:92-cv-136-FTM-17D, 1996 WL 467511 *4 (M.D.Fla. Aug.13, 1996) (citing Thornburgh, 490 U.S. at 414). There must be "a 'close fit' between the challenged regulation and the interest purported to serve." Thornburgh, 490 U.S. at 411. Indeed, outgoing correspondence is less of an issue for prison security and order than the implication of incoming materials. Id. As noted supra, however, the Courts have recognized that the exercise of inmate rights must be weighed against the difficulties of modern prison administration. Thornburgh, 490 U.S. at 407. Prison officials may impose regulations necessary for the operation and administration of the facility, including inspecting the contents of the prisoners' outgoing mail as long as long as it is "accompanied by minimum procedural safeguards." Procunier v. Martinez, 416 U.S. at 417; see also Al-Amin, supra, 511 F.3d at 1333-1334.

It appears that no District Court in this Circuit, nor the Eleventh Circuit or the United States Supreme Court, have found on summary judgment that a postcard only policy such as that instituted at the OCJ, constituted a violation of the inmates' First Amendment rights. At least 3 district court cases from this Circuit have held, as did this Court on initial screening, that allegations of an unjustified limitation on outgoing prisoner mail states a plausible First Amendment claim, and dismissal of such a claim at the frivolity stage would be premature. Johnson v Smith, Sheriff Barrow County, 2:10-CV-236, 2011 WL 344085 *4 (N.D.Ga. February 1, 2011); Daniels v. Ozburn, No. 3:11-CV-45 (CAR), 2011 WL 2604757 (M.D.Ga., May 18, 2011); Rufus v. Chapman, No. 3:11-CV-74 (CAR), 2011 WL 3627315, at *3 (M.D.Ga., July 29, 2011). In Johnson,

Daniels, and Rufus, the Courts noted that while it was possible that the alleged postcard policy existed for a valid security reason, the Court could not make that assumption at the stage of initial screening. [That determination required further factual development of the case]. It is further noted, however, that in at least one reported case, from Colorado, plaintiffs, proceeding as a class, and seeking only injunctive relief, obtained a stipulated resolution resulting in a permanent injunction enjoining the El Paso County Jail from enforcing the postcard-only policy, or any other policy that limits prisoners' outgoing mail to postcards. See Martinez v. Maketa, No. 10-cv-02242-WYD-KLM, 2011 WL 2222129 (D.Colo., June 7, 2011).⁹

In their Amended Complaint in this case, the plaintiffs Martinez, Reed, and Johnson explicitly state that "we requested that the provision that restricts an inmates outgoing mail to postcards only be changed to permit those inmates who supply their own postage to send out paged letters in stamped envelopes."

Here, where the OCJ policy which they challenge, and the concerns that they raise, have to do with outgoing inmate mail, it is assumed that the two prong inquiry employed under Procurier v. Martinez applies. That being so, then the policy/practices being

⁹ In Martinez v. Maketa, on September 14, 2010, Plaintiffs filed a class action complaint challenging the El Paso County Jail's recently implemented postcard-only policy, which limited the vast majority of outgoing prisoner correspondence to postcards. They complained that the postcard-only policy violated the free speech rights of inmates under the United States and Colorado Constitutions. On November 10, 2010, the Plaintiffs filed a motion for preliminary injunction, which was set for hearing on December 22, 2010. Then days before the hearing, the Defendant rescinded the postcard-only policy and, shortly thereafter, stipulated in pertinent part that class certification in this case should be granted. On December 20, 2010, the Court entered a stipulated order granting a preliminary injunction that enjoined the Defendant from enforcing the postcard-only policy or any other policy that limits prisoners outgoing mail to postcards. The parties thereafter entered into the stipulated resolution resulting in the permanent injunction enjoining the Jail from future enforcement of the postcard only policy or other policy limiting outgoing mail to postcards.

challenged must: (1) further an important or substantial governmental interest unrelated to the suppression of expression; and (2) extend no further than necessary or essential to the protection of the particular governmental interest involved. Procunier v. Martinez, 416 U.S. at 412-13. See Thornburgh, 490 U.S. at 413.

The officials at the OCJ have the authority to inspect and regulate outgoing inmate mail concerning escape plans, criminal activity, etc., whether within or without the facility, and regarding threats of blackmail or extortion, encoded messages, and contraband, where security and order constitute a compelling governmental interest. Procunier v. Martinez, at 412-413; Thornburgh, at 411-12 (citing Martinez). Cost containment in the face of budgetary constraints also may represent a compelling governmental interest. See Muhammad v. Sapp, *supra*. Cf Martinelli, *supra*.

Examination of the three plaintiffs' pleadings in this case reveals that they include no allegation whatsoever that any particular piece of outgoing mail submitted by them to OCJ authorities for processing was actually censored for content, although Martinez in his Declaration and Opposition (DE#s 64, 65) in answer to May's Summary Judgment Motion (DE#48), argues that the policy effectively prevented all pretrial detainees from sending commercially prepared "birthday, Father's Day, Mother's Day, and Christmas cards." The OCJ policy (SOP# 422.00) being challenged contains procedural safeguards serving to address due process concerns relating to inspection, *see* Martinez, at 417; Al-Amin, at 1333-1334, by forbidding censorship unless the outgoing mail contains enumerated forbidden content,¹⁰ and specifying what occurs when offending

¹⁰ The outgoing mail, except privileged/legal mail, is subject to inspection at any time, but particularly if there is reason to suspect that: it contains threats of physical harm against persons or threats of criminal activity; it threatens blackmail or extortion; it contains plans for activities in violation of institutional rules; it is in code; or it contains information which, if communicated, would create a clear and present danger of violence and physical harm to some person. See Inmate Mail SOP#422.00, §IV.B. 3.(a) to (f), (at DE#48-1, p.13).

correspondence is indentified, including that offending postcards may be destroyed per policy, or returned to sender; and that mail containing any of the enumerated prohibitions will be referred to the Detention Deputy Captain for further action.¹¹

The plaintiffs contend that a less restrictive alternative would be to revert back to use of envelopes and allow all non-indigent inmates to buy unlimited numbers of stamps; and they contend that doing so would impose no increased financial burden on the OCJ and its budget. They argue that the new postcard only policy could be left in place and applied only to the indigent inmates. It is apparent, however, that this set of arguments by the three plaintiffs in this case overlooks the fact that cost-savings were not the only institutional interest that the Sheriff was seeking to further through the new policy. Allowing the non-indigent inmates to purchase unlimited numbers of stamps, and to send unlimited numbers of outgoing paged-letters in envelopes would undermine the security interest that the Sheriff also intended to serve through the postcard only policy. [It is further noted that if a "split" policy were instituted by the Sheriff/OCJ, allowing non-indigent inmates to send outgoing mail in multi-paged letters via envelope, but allowing indigent inmates to send only outgoing postcards, doing so could raise the specter of an Equal Protection violation].

Although Plaintiff Reed argues in his sworn response (DE#68), and the Sheriff admits in his Affidavit (DE#48, Ex.A), that the postcard only requirement has not eradicated 100% of security-related abuses that the policy was intended to curb, the policy has, as proffered by Sheriff May's Affidavit, reduced mail-related incidents that impact security; and neither Reed nor the other plaintiffs have proffered evidence to show otherwise. Plaintiff Martinez's Motion for Summary Judgment (DE#49) and Memorandum

¹¹ See Inmate Mail SOP#422.00, §§IV.A.3, IV.B.3.(a)-(f), and §IV.B.5. (at DE#48-1, pp.12-13).

(DE#50), which are unsworn, also do not provide evidence to demonstrate that the OCJ postcard policy has not reduced mail-related incidents impacting on security.

Sheriff May indicates that use of postcards for outgoing inmate mail is the least restrictive alternative that could be implemented which would serve both of the dual interests underlying the policy [achieving significant cost-savings on the indigent mail front, while at the same time uniformly [for both indigent and non-indigent inmates] achieving a reduction of the security risks that were posed by allowing use of envelopes to send multi-paged written correspondence.

The plaintiffs, without specifics, assert that the OCJ policy increases the risk that persons handling the outgoing inmate mail may see its contents. This is not disputed. [The Court notes, that between its tendering to jail officials for mailing, and receipt into the hands of the addressee, it is most likely that a postcard would be exposed to staff handling the mail at the OCJ. Thereafter, anonymous postal workers handling the mail [postcards] for processing and delivery might see its content. Such mail also could be read by persons unknown, other than the addressee, at the address to which it is delivered, if the addressee is not the one who retrieves it from the postal box at the delivery address]. Insofar as the plaintiffs' concern relates to persons at the OCJ reading the content of their postcards, however, it is noted that where security concerns warranted in any particular case, the plaintiffs' outgoing mail [even if it were in envelopes] was always subject to scrutiny to ensure that it did not include coded language, inappropriate delivery or return address designations, contraband, etc.

As noted, the plaintiffs have not said that, as to themselves, any correspondence was censored. They also have not stated that they, personally, were chilled in regard to the content of anything that they wrote or would have written while confined at the OCJ, by

virtue of the fact that they could not hide the contents from the eyes of anyone but the addressee through use of an envelope. They have contended that the postcard-only/no-envelope policy deprived them of the opportunity to include greeting cards in mailings to loved ones, but they do not allege, nor does any evidence suggest that they could not write the same greeting on a postcard that they would have written on a commercially prepared card.

There is not binding authority in this Circuit, or from the United States Supreme Court, which holds that a jail outgoing mail policy such as that implemented by the OCJ is unconstitutional.

The plaintiffs have not suggested, or demonstrated the existence of a less restrictive alternative that would serve both of the legitimate governmental interests (security, and cost savings) which defendant May has shown were the reasons for implementing the Postcard only OCJ outgoing mail policy, and which his Affidavit and exhibits demonstrate have been served/furthered as a result of the use of that policy. Thus, when employing the standard enunciated in Procunier v. Martinez, for consideration of First Amendment claims relating to outgoing inmate mail, and viewing the evidence available from the record, it is apparent that there existed dual, important and substantial governmental interests underlying implementation of the policy being challenged, that the policy was not implemented for the purpose of suppressing expression of speech, that there was no readily available alternative that would serve both of the governmental interests in question, and it is apparent that under the circumstances the policy/restriction was no greater than necessary to further the governmental interests involved. See Thornburgh, 490 U.S. at 413; Procunier, 416 U.S. at 412-13.

Even if the Court were, instead, to apply the "reasonableness" standard enunciated under Turner v. Safley, as the defendant May urges that it should, the Defendant May would still be entitled to summary disposition of the claims in his favor, and the plaintiffs

would not. First, it is apparent that the OCJ policy is "reasonably related" to both legitimate penological interests, maintenance of security and order of the institution, and cost savings. Second, there were for the plaintiffs Martinez, Reed, and Johnson, apart from writing paged letters to be sealed in envelopes, alternative means of communication with people they wished to contact. They presumably could afford to purchase stamps [because they proposed as an alternative, relaxation of the policy to permit those inmates who could afford to buy them, the privilege of purchasing unlimited numbers of stamps, so the could send paged-letters in envelopes], and to the extent that was so, they could purchase multiple pre-franked postcards if they wanted to say more to a recipient than could be written on a single postcard. [Sheriff May's Affidavit indicates that the inmates also had alternative means of communication: including visitation, and phone privileges]. Third, the implementation of the policy, while limiting the quantity of words that could be written in a single mailing since the surface of a postcard is smaller than that of pages of paper previously sent inside envelopes, did not seek to limit what any one inmate permissibly could write. [While things that could not permissibly be written in a sealed letter, also could not be written on a pre-franked postcard; concomitantly, the same things that permissibly could be written by letter, could still be expressed and sent by postcard]. The impact of the accommodation to which the plaintiffs claim they should have been entitled, essentially re-instituting the prior policy allowing basically unfettered writing of multi-paged letters to be sealed in envelopes, would, according to Sheriff May's evidence, have a significant impact on institutional security, and the jail's personnel [e.g., if re-instituted, it would again increase security risks that the postcard policy had sought to lessen]. Fourth, it does not appear that ready alternatives existed, but were ignored, so as to suggest that the policy that was instituted was an exaggerated response to prison concerns. As discussed, the plaintiffs have not suggested the existence of obvious and easy alternatives to the newly instituted postcard only

policy, which would simultaneously serve both of the important governmental interests (reducing security risks; while achieving cost savings, and making easier and more efficacious, the process of screening of outgoing mail). Turner, supra, 482 U.S., at 89-90.

VI CONCLUSION

In sum, here, the Plaintiffs Reed and Johnson, and Plaintiff Martinez who himself filed a motion for summary judgment, have not shown that there exists a genuine issue of material fact which would preclude summary disposition of their amended complaint in the favor of the Defendant May, based on the showing made by May through his summary judgment motion and evidence submitted therewith. Celotex v. Catrett, supra.

For the above stated reasons, it is recommended that: (1) the Defendant May's Motion for Summary Judgment (DE#48) should be GRANTED, as to all claims; (2) insofar as it appears that Plaintiff Martinez has abandoned this lawsuit, the amended complaint should be dismissed as to Martinez, for lack of prosecution, and Martinez's Motion for Summary Judgment (DE#49) should be dismissed; (3) alternatively, the Plaintiff Martinez's Motion for Summary Judgment (DE#49) should be DENIED, as to all claims; and (4) and this case should be CLOSED.

Objections to this report may be filed with the District Judge within fourteen days of receipt of a copy of the report.

Dated: April 25th, 2009.



UNITED STATES MAGISTRATE JUDGE

cc: Oscar M. Martinez, Pro Se
1117 11th Street East
Winter Haven, FL 33880

Case 2:11-cv-14039-KMM Document 73 Entered on FLSD Docket 04/25/2012 Page 29 of 29

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CLOSED

**U.S. District Court
Southern District of Florida (Ft. Pierce)
CIVIL DOCKET FOR CASE #: 2:11-cv-14039-KMM**

Martinez v. May
Assigned to: Judge K. Michael Moore
Cause: 42:1983 State Prisoner Civil Rights

Date Filed: 02/02/2011
Date Terminated: 06/08/2012
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

Oscar M. Martinez

represented by **Oscar M. Martinez**
1117 11th Street East
Winter Haven, FL 33880
PRO SE

V.

Consol Plaintiff

David L. Reed
Prisoner ID: K82661

represented by **David L. Reed**
K82661
Columbia Correctional Institution-Annex
Inmate Mail/Parcels
253 SE Corrections Way
Lake City, FL 32025
PRO SE

Consol Plaintiff

Johnny R. Johnson
Prisoner ID: 539459

represented by **Johnny R. Johnson**
539459
Florida State Prison
Inmate Mail/Parcels
7819 NW 228th Street
Raiford, FL 32026
PRO SE

V.

Defendant

Sheriff Paul C. May

represented by **Richard A. Giuffreda**
Purdy Jolly Giuffreda & Barranco PA

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/02/2011	<u>1</u>	COMPLAINT against Paul C. May. Filing fee \$ 350.00. IFP Filed, filed by Oscar M. Martinez.(lh) Modified event for MJSTAR on 3/21/2011 (wc). (Entered: 02/02/2011)
02/02/2011	2	Judge Assignment RE: Electronic Complaint to Judge K. Michael Moore (lh) (Entered: 02/02/2011)
02/02/2011	3	Clerks Notice of Magistrate Judge Assignment to Magistrate Judge Patrick A. White. Pursuant to Administrative Order 2003-19 for a ruling on all pre-trial, non-dispositive matters and for a Report and Recommendation on any dispositive matters. (lh) (Entered: 02/02/2011)
02/02/2011	4	MOTION for Leave to Proceed in forma pauperis by Oscar M. Martinez. (lh) (Entered: 02/02/2011)
02/10/2011	<u>5</u>	ORDER OF INSTRUCTIONS TO PRO SE CIVIL RIGHTS LITIGANTS. Signed by Magistrate Judge Patrick A. White on 2/10/2011. (tw) (Entered: 02/10/2011)
02/10/2011	<u>6</u>	ORDER PERMITTING PLAINTIFF TO PROCEED WITHOUT PREPAYMENT OF FILING FE BUT ESTABLISHING DEBT TO CLERK OF \$350.00 and Granting <u>4</u> Motion for Leave to Proceed in forma pauperis. Signed by Magistrate Judge Patrick A. White on 2/10/2011. (tw) (Entered: 02/10/2011)
03/14/2011	<u>7</u>	MOTION for Preliminary Injunction by Oscar M. Martinez. (lbc) (Entered: 03/14/2011)
03/21/2011	<u>8</u>	REPORT AND RECOMMENDATIONS on 42 USC 1983 case re <u>7</u> MOTION for Preliminary Injunction filed by Oscar M. Martinez Recommending: 1)the complaint shall proceed against Sheriff May; 2) the claim shall not proceed as a class action on behalf of the inmates at Okeechobee County Jail; 3) the plaintiff's motion for a temporary restraining order (DE# 7) shall be denied. Objections to R&R due by 4/7/2011. Signed by Magistrate Judge Patrick A. White on 3/21/2011. (br) Modified text on 3/21/2011 (wc). (Entered: 03/21/2011)
03/24/2011	<u>9</u>	MOTION to Withdraw Previous Motion for a Summons and Complaint to be served upon the defendant by Oscar M. Martinez. Responses due by 4/11/2011 (lbc) (Entered: 03/25/2011)
03/29/2011	10	ORDER granting <u>9</u> Motion to Withdraw motion for service.. Signed by Magistrate Judge Patrick A. White on 3/29/2011. (cz) (Entered: 03/29/2011)

10/14/12

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04/15/2011	<u>11</u>	NOTICE of Attorney Appearance by Richard A. Giuffreda on behalf of Paul C. May (Giuffreda, Richard) (Entered: 04/15/2011)
04/15/2011	<u>12</u>	<i>Defendant Sheriff's</i> ANSWER and Affirmative Defenses to Complaint by Paul C. May. (Giuffreda, Richard) (Entered: 04/15/2011)
04/19/2011	<u>13</u>	SCHEDULING ORDER: Amended Pleadings due by 8/19/2011. Discovery due by 8/5/2011. Joinder of Parties due by 8/19/2011. Motions due by 9/9/2011.. Signed by Magistrate Judge Patrick A. White on 4/18/2011. (tw) (Entered: 04/19/2011)
04/20/2011	<u>14</u>	PAPERLESS ORDER. THIS CAUSE came before the Court upon Plaintiff Oscar Martinez' Complaint <u>1</u> under 42 U.S.C. § 1983. THIS MATTER was referred to the Honorable Patrick A. White, United States Magistrate Judge, who issued a Report <u>8</u> recommending that the Complaint <u>1</u> shall proceed against Sheriff May, the claim shall not proceed as a class action on behalf of the inmates at Okeechobee County Jail, and that Plaintiff's Motion for a Preliminary Injunction <u>7</u> be denied. No objections were filed. Upon consideration of the Petition, Report, and Objection, and after a de novo review of the record, it is hereby ORDERED AND ADJUDGED that the Motion for a Preliminary Injunction <u>7</u> is DENIED. The Complaint <u>1</u> shall proceed against Sheriff May, however the claim shall not proceed as a class action. It is further ORDERED AND ADJUDGED that Magistrate Judge White's Report and Recommendation <u>8</u> is ADOPTED. This case shall remain OPEN. Signed by Judge K. Michael Moore on 4/20/2011. (rg1) (Entered: 04/20/2011)
04/29/2011	<u>15</u>	MOTION to Consolidate Cases and Join Parties by Oscar M. Martinez. Responses due by 5/16/2011 (lbc) (Entered: 05/02/2011)
04/29/2011	<u>16</u>	MOTION to Amend Complaint by David L. Reed. Responses due by 5/16/2011 (tp) (Entered: 05/04/2011)
05/04/2011	<u>17</u>	PAPERLESS ORDER DENYING AS MOOT Plaintiff's Motion to Consolidate <u>15</u> . Reed v. May, Case No. 11-14038, has already been consolidated with this case. Signed by Judge K. Michael Moore on 5/4/2011. (rg1) (Entered: 05/04/2011)
05/16/2011	<u>18</u>	RESPONSE to Motion re (18 in 2:11-cv-14038-KMM) MOTION to Amend/Correct, (16 in 2:11-cv-14039-KMM) MOTION to Amend/Correct filed by Paul C. May. Replies due by 5/26/2011. Associated Cases: 2:11-cv-14039-KMM, 2:11-cv-14038-KMM(Giuffreda, Richard) (Entered: 05/16/2011)
05/16/2011	<u>19</u>	RESPONSE to Motion re (17 in 2:11-cv-14038-KMM, 17 in 2:11-cv-14038-KMM) MOTION Joinder of Parties MOTION to Consolidate Cases filed by Paul C. May. Replies due by 5/26/2011. Associated Cases: 2:11-cv-14039-KMM, 2:11-cv-14038-KMM(Giuffreda, Richard) (Entered: 05/16/2011)
06/08/2011	<u>20</u>	MOTION for Leave to File an Amended Complaint by David L. Reed. (drz) (Entered: 06/08/2011)
06/08/2011	<u>21</u>	Request for Documents by David L. Reed (drz) (Entered: 06/08/2011)

10/14/12

06/13/2011	<u>22</u>	REPORT AND RECOMMENDATIONS granting in part and denying in part <u>16</u> MOTION to Amend/Correct filed by David L. Reed. Objections to R&R due by 6/30/2011. Signed by Magistrate Judge Patrick A. White on 6/9/2011. (tw) (Entered: 06/13/2011)
06/15/2011	<u>23</u>	RESPONSE to Motion re <u>20</u> MOTION for Leave to File <i>an Amended Complaint</i> filed by Paul C. May. Replies due by 6/27/2011. (Giuffreda, Richard) (Entered: 06/15/2011)
07/11/2011	<u>24</u>	NOTICE of Compliance / <i>Service of Defendant Sheriff's Response to Plaintiff Reed's Request for Documents</i> by Paul C. May re <u>21</u> Notice (Other) filed by David L. Reed (Giuffreda, Richard) (Entered: 07/11/2011)
08/02/2011	<u>25</u>	Required Disclosure for Discovery by David L. Reed (drz) (Entered: 08/02/2011)
08/08/2011	<u>26</u>	PAPERLESS ORDER. THIS CAUSE came before the Court upon Plaintiff Oscar Martinez' Motion to Amend Complaint <u>16</u> . THIS MATTER was referred to the Honorable Patrick A. White, United States Magistrate Judge, who issued a Report <u>22</u> recommending that the Motion <u>1</u> be granted in part and denied in part. No Objections were filed. Upon consideration of the Motion and Report, and after a de novo review of the record, it is hereby ORDERED AND ADJUDGED that the Motion <u>1</u> is GRANTED IN PART AND DENIED IN PART. It is ORDERED that: 1. Plaintiffs unopposed motion to amend to clarify details within the claim and organize the facts to make them more coherent is GRANTED. 2. Plaintiff shall be permitted to file a Proposed Amended Complaint, also signed by Plaintiff Oscar Martinez if possible. 3. Plaintiffs motion to amend to name Sheriff May in his individual capacity is denied, and the motion to add punitive damages is DENIED. It is further ORDERED AND ADJUDGED that Magistrate Judge White's Report and Recommendation <u>22</u> is ADOPTED. This Case shall remain OPEN. Signed by Judge K. Michael Moore on 8/8/2011. (rgl) (Entered: 08/08/2011)
08/18/2011	<u>27</u>	MOTION to Grant a Temporary Order Permitting Legal Coorespondence Among Plaintiffs by David L. Reed. (drz) (Entered: 08/19/2011)
08/18/2011	<u>28</u>	AMENDED COMPLAINT against Paul C. May, filed by Oscar M. Martinez, David L. Reed.(drz) (Entered: 08/19/2011)
08/23/2011	<u>29</u>	ORDER denying <u>27</u> Motion for an order to permit legal correspondence with inmates, the plaintiffs must work within the Rules and Regulations of their place of confinement.. Signed by Magistrate Judge Patrick A. White on 8/23/2011. (cz) (Entered: 08/23/2011)
08/26/2011	<u>30</u>	NOTICE of Change of Address by Oscar M. Martinez(Address Updated) Associated Cases: 2:11-cv-14039-KMM, 2:11-cv-14038-KMM(drz) (Entered: 08/26/2011)
08/29/2011	<u>31</u>	MOTION for Additional Time Extension by Oscar M. Martinez. (drz) (Entered: 08/29/2011)
08/29/2011	<u>32</u>	MOTION to Correspond by Oscar M. Martinez, David L. Reed. (drz) (Entered: 08/29/2011)
08/29/2011	<u>33</u>	MOTION to Appoint Counsel by Oscar M. Martinez. Responses due by 9/15/2011

10/14/12

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		(drz) (Entered: 08/29/2011)
08/31/2011	34	ORDER denying <u>32</u> Motion to correspond with other inmates, the plaintiff must work within the Rules and Regulations of his place of incarceration, if the prison authorities permit him to correspond with other inmates he may due so ; denying <u>33</u> Motion to Appoint Counsel. Signed by Magistrate Judge Patrick A. White on 8/31/2011. (cz) (Entered: 08/31/2011)
08/31/2011	<u>35</u>	ANSWER and Affirmative Defenses to Amended Complaint by Paul C. May.(Giuffreda, Richard) (Entered: 08/31/2011)
09/06/2011	<u>36</u>	MOTION for Extension of Time to File Motion for Summary Judgment by Paul C. May. Responses due by 9/23/2011 (Attachments: # <u>1</u> Text of Proposed Order)(Giuffreda, Richard) (Entered: 09/06/2011)
09/07/2011	<u>37</u>	RESPONSE to Motion re <u>31</u> MOTION for Extension of Time to Complete Discovery filed by Paul C. May. Replies due by 9/19/2011. (Giuffreda, Richard) (Entered: 09/07/2011)
09/07/2011	38	ORDER denying <u>31</u> Motion for Extension of Time to Complete Discovery until plaintiff can confer with defendant Reed, the plaintiff may confer with Reed only with permission from his place of incarceration; granting <u>36</u> Motion for Extension of Time to defendants to file motion for summary judgment on or before 10/11/11.. Signed by Magistrate Judge Patrick A. White on 9/7/2011. (cz) (Entered: 09/07/2011)
09/09/2011		Set/Reset Deadlines/Hearings as per DE 38 : Motion for summary judgment due by 10/11/2011. (lk) (Entered: 09/09/2011)
09/19/2011	39	Clerk's Notice of Undeliverable Mail re 29 Order on Motion for Miscellaneous Relief. US Mail returned for: return to sender inmate no longer at this facility. no forwarding info provided.. <i>The Court has not located an updated address for this party. After two unsuccessful noticing attempts, notices from the Court will no longer be sent to this party in this case until a correct address is provided.</i> US Mail returned for Oscar Martinez First return/attempt (rb) (Entered: 09/19/2011)
09/20/2011	<u>40</u>	Supplemental Request for Documents by David L. Reed. Associated Cases: 2:11-cv-14039-KMM, 2:11-cv-14038-KMM(drz) (Entered: 09/20/2011)
09/21/2011	41	ORDER denying <u>40</u> Motion motion for documents from the Sheriff, the plaintiff may direct his discovery requests directly to the parties or make arrangements for the payment and service of subpoenas on non parties.. Signed by Magistrate Judge Patrick A. White on 9/21/2011. (cz) (Entered: 09/21/2011)
09/21/2011	<u>42</u>	ORDER On or before September 30, 2011, the plaintiff shall inform the Court if he wishes to continue to litigate. Signed by Magistrate Judge Patrick A. White on 9/21/2011. (tw) (Entered: 09/21/2011)
09/22/2011		Set/Reset Deadlines/Hearings as per DE <u>42</u> : Miscellaneous Deadline 9/30/2011. (lk) (Entered: 09/22/2011)

10/14/12

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10/03/2011	<u>43</u>	NOTICE of Change of Address by David L. Reed. system updated (yha) (Entered: 10/03/2011)
10/03/2011	<u>44</u>	MOTION/Notice to Continue Litigation by Oscar M. Martinez. Responses due by 10/20/2011 (yha) (Entered: 10/03/2011)
10/04/2011	<u>45</u>	ORDER granting <u>44</u> Motion to Continue to litigate this lawsuit.. Signed by Magistrate Judge Patrick A. White on 10/4/2011. (cz) (Entered: 10/04/2011)
10/05/2011	<u>46</u>	Required Disclosure(s) for Discovery by Oscar M. Martinez, David L. Reed (yha) (Entered: 10/05/2011)
10/06/2011	<u>47</u>	PRETRIAL STIPULATION by Paul C. May (Attachments: # <u>1</u> Exhibit A-Defendant's Exhibit List, # <u>2</u> Exhibit B-Defendant's Non-Inmate Witness List)(Giuffreda, Richard) (Entered: 10/06/2011)
10/11/2011	<u>48</u>	MOTION for Summary Judgment (<i>and Memorandum of Law</i>) by Paul C. May. Responses due by 10/28/2011 (Attachments: # <u>1</u> Exhibit A-Ronnie White Affidavit, # <u>2</u> Text of Proposed Order)(Giuffreda, Richard) (Entered: 10/11/2011)
10/11/2011	<u>49</u>	MOTION for Summary Judgment by Oscar M. Martinez. Responses due by 10/28/2011 (yha) (Entered: 10/11/2011)
10/11/2011	<u>50</u>	MEMORANDUM of Law re <u>49</u> MOTION for Summary Judgment by Oscar M. Martinez. (yha) (Entered: 10/11/2011)
10/14/2011	<u>51</u>	RESPONSE in Opposition re <u>49</u> MOTION for Summary Judgment filed by Paul C. May. (Giuffreda, Richard) (Entered: 10/14/2011)
10/19/2011	<u>52</u>	ORDER OF INSTRUCTING PRO SE PLAINTIFF CONCERNING to <u>48</u> MOTION for Summary Judgment (<i>and Memorandum of Law</i>).(Responses due by 11/18/2011). Signed by Magistrate Judge Patrick A. White on 10/19/2011. (tw) (Entered: 10/19/2011)
10/26/2011	<u>53</u>	Clerk's Notice of Undeliverable Mail re 45 Order on Motion to Continue. US Mail returned for: return to sender. not deliverable as addressed. update current address. resent document. <i>Updated address found and document resent to new address.</i> US mail returned for David L. Reed Updated adress and resent document. (rb) (Entered: 10/26/2011)
10/28/2011	<u>54</u>	NOTICE of Change of Address by David L. Reed (System updated) (jua) (Entered: 10/31/2011)
10/28/2011	<u>55</u>	MOTION for Extension of Time to File Response, Pleading, Objection, or Submit Evidence as to <u>48</u> MOTION for Summary Judgment (<i>and Memorandum of Law</i>) by David L. Reed. (jua) (Entered: 10/31/2011)
10/28/2011	<u>56</u>	MOTION to Compel <i>Discovery</i> and Objections to the Defendants Response to Plaintiff Reed's Supplemental Request for Documents Dated September 19, 2011 by David L. Reed. Responses due by 11/17/2011 (jua) (Entered: 10/31/2011)

10/14/12

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10/28/2011	<u>57</u>	SPECIAL NOTICE to the Court and Second Notice of Address Change by David L. Reed (System updated) (jua) (Entered: 10/31/2011)
10/28/2011	<u>58</u>	NOTICE to the Court by David L. Reed (jua) (Entered: 10/31/2011)
10/31/2011	<u>59</u>	RESPONSE to Motion re <u>56</u> MOTION to Compel <i>Discovery</i> filed by Paul C. May. Replies due by 11/10/2011. (Giuffreda, Richard) (Entered: 10/31/2011)
10/31/2011	<u>60</u>	RESPONSE to Motion re <u>55</u> MOTION for Extension of Time to File Response/Reply as to <u>48</u> MOTION for Summary Judgment (<i>and Memorandum of Law</i>) filed by Paul C. May. Replies due by 11/10/2011. (Giuffreda, Richard) (Entered: 10/31/2011)
10/31/2011	<u>61</u>	NOTICE by Paul C. May re <u>59</u> Response to Motion of <i>Filing Exhibits A & B to DE 59</i> (Attachments: # <u>1</u> Exhibit A & B)(Giuffreda, Richard) (Entered: 10/31/2011)
11/07/2011	<u>62</u>	ORDER granting <u>55</u> Motion for Extension of Time to File Response/Reply to summary judgement is due on or before 12/5/11; denying <u>56</u> Motion to Compel for the reasons stated in defendants' response.. Signed by Magistrate Judge Patrick A. White on 11/7/2011. (cz) (Entered: 11/07/2011)
12/01/2011	<u>63</u>	NOTICE of Change of Address by Oscar M. Martinez (System updated) (jua) (Entered: 12/02/2011)
12/01/2011	<u>64</u>	DECLARATION by Oscar M. Martinez (jua) (Entered: 12/02/2011)
12/01/2011	<u>65</u>	RESPONSE in Opposition re <u>48</u> MOTION for Summary Judgment (<i>and Memorandum of Law</i>) filed by Oscar M. Martinez. (jua) (Entered: 12/02/2011)
12/07/2011	<u>66</u>	Clerks Notice of Receipt of Partial Filing Fee received on 12/5/2011 in the amount of \$ 8.00, receipt number FLS100029530 (ar2) (Entered: 12/07/2011)
12/09/2011	<u>67</u>	RESPONSE in Support re (49 in 2:11-cv-14039-KMM) MOTION for Summary Judgment filed by Paul C. May. Associated Cases: 2:11-cv-14039-KMM, 2:11-cv-14038-KMM(Giuffreda, Richard) (Entered: 12/09/2011)
12/09/2011	<u>68</u>	RESPONSE to Motion re <u>48</u> MOTION for Summary Judgment (<i>and Memorandum of Law</i>) filed by David L. Reed. Replies due by 12/19/2011. (yha) (Entered: 12/12/2011)
12/22/2011	<u>69</u>	REPLY to Response to Motion re <u>48</u> MOTION for Summary Judgment (<i>and Memorandum of Law</i>) filed by Paul C. May. (Giuffreda, Richard) (Entered: 12/22/2011)
03/23/2012	<u>70</u>	NOTICE of Change of Address by David L. Reed (System Updated) Associated Cases: 2:11-cv-14039-KMM, 2:11-cv-14038-KMM(cqs) (Entered: 03/23/2012)
04/05/2012	<u>71</u>	PAPERLESS ORDER REFERRING <u>48</u> <u>49</u> Motions for Summary Judgment. PURSUANT to 28 U.S.C. § 636 and the Magistrate Rules of the Local Rules of the Southern District of Florida, the above-captioned cause is referred to Magistrate Judge Patrick A. White to issue a Report and Recommendation with respect to any and all pending Motions for Summary Judgment <u>48</u> <u>49</u> . Signed by Judge K. Michael Moore on 4/5/2012. (dwe) (Entered: 04/05/2012)

10/14/12

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04/19/2012	<u>72</u>	NOTICE of Inquiry by David L. Reed (Docket Sheets for Associated Cases: 2:11-cv-14039, 2:11-cv-14038 mailed 4/19/2012) (ail) (Entered: 04/19/2012)
04/25/2012	<u>73</u>	REPORT AND RECOMMENDATIONS on 42 USC 1983 case. Denying as to all claims <u>49</u> MOTION for Summary Judgment filed by Oscar M. Martinez, Granting as to all claims <u>48</u> MOTION for Summary Judgment (<i>and Memorandum of Law</i>) filed by Paul C. May. This case should be closed. Objections to R&R due by 5/14/2012. Signed by Magistrate Judge Patrick A. White on 4/25/2012. (tw) (Entered: 04/25/2012)
05/07/2012	<u>74</u>	MOTION for Extension of Time to File Objections as to <u>73</u> REPORT AND RECOMMENDATIONS on 42 USC 1983 case re <u>49</u> MOTION for Summary Judgment filed by Oscar M. Martinez, <u>48</u> MOTION for Summary Judgment (<i>and Memorandum of Law</i>) filed by Paul C. May by Oscar M. Martinez. (cqs) (Entered: 05/08/2012)
05/09/2012	75	PAPERLESS ORDER. THIS CAUSE came before the Court upon Petitioner's Motion for Extension of Time to File Objections <u>74</u> . UPON CONSIDERATION of the Motion, the pertinent portions of the Record, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED that Petitioner's Motion <u>74</u> is GRANTED IN PART. Petitioner may file objections to the Magistrate's Report and Recommendation on or before June 1, 2012. Signed by Judge K. Michael Moore on 5/9/2012. (dwe) (Entered: 05/09/2012)
06/08/2012	76	PAPERLESS ORDER ADOPTING <u>73</u> REPORT AND RECOMMENDATION. THIS CAUSE came before the Court upon Plaintiffs Oscar M. Martinez, David L. Reed, and Johnny R. Johnsons Complaints made pursuant to 42 U.S.C. § 1983. The cases were consolidated and the operative pleading is now the pro se Amended Complaint <u>28</u> . THIS MATTER was referred to the Honorable Patrick A. White, United States Magistrate Judge, who issued a Report <u>73</u> recommending that Defendant's Motion for Summary Judgment <u>48</u> be granted. Though an extension of time was provided to Plaintiffs to file Objections, no Objections were timely filed. Upon consideration of the Complaint, Report, and after a de novo review of the record, it is hereby ORDERED AND ADJUDGED that Defendant's Motion for Summary Judgment <u>48</u> is GRANTED. It is further ORDERED AND ADJUDGED that Plaintiffs Amended Complaint <u>28</u> is DISMISSED WITH PREJUDICE. It is further ORDERED AND ADJUDGED that Magistrate Judge White's Report and Recommendation <u>73</u> is ADOPTED. The Clerk of the Court is instructed to CLOSE this case. All pending motions not otherwise ruled upon are DENIED AS MOOT. Signed by Judge K. Michael Moore on 6/8/2012. (dwe) (Entered: 06/08/2012)
06/11/2012	77	Case No Longer Referred to Magistrate Judge Patrick A. White/Case Closed by the District Judge. Signed by Magistrate Judge Patrick A. White on 6/11/2012. (br) (Entered: 06/11/2012)

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