



# Prison Legal News

v.

# Redwood County

*Based on a real case: Prison Legal News v. Columbia County. The description of the case and excerpts from its documents are real.*

*More information—including summaries and documents—available at <http://www.clearinghouse.net/detail.php?id=12105>.*

# Case Materials

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## Statement of Facts

### **Brief Case Summary:**

On January 13, 2012, Prison Legal News (PLN) filed a federal lawsuit against Redwood County, the Redwood County Sheriff's Office, and its Sheriff, Kevin Parson. PLN, a project of the Human Rights Defense Center, publishes and distributes a monthly journal of prison and jail news and analysis, as well as books about the criminal justice system and issues affecting prisoners. PLN claimed that the defendants censored PLN publications and other correspondence sent to Redwood County prisoners, in violation of the United States Constitution's First Amendment. The plaintiff asked the court for an official court declaration (called a declaratory judgment) that the jail's policy was unconstitutional and an injunction ordering the jail to change its policy. Defendants countered that their mail policies, specifically their "postcard only" policy, was legitimate because it prevented the introduction of contraband into their jail and saved time during mail inspection at the jail.

***This Statement of Facts is not to be used as evidence in the trial.***

## Notes for Case

1. All exhibits included within are authentic and accurate. No objections to the authenticity of the exhibits will be honored.
2. All signatures on witness affidavits and other documents are authentic. If asked, a witness must acknowledge signing the document(s) and must attest to the content of the documents(s) and the date(s) indicated therein. The witness affidavits are deemed to be given under oath or affirmation. Neither side is permitted to argue that a signature appearing on a deposition does not comport with the witness' actual signature

## Applicable Law

The plaintiff has the burden to show that the correctional institution's regulation that restricts inmates' free speech rights deprived the plaintiff of rights under the United States Constitution. In order for the regulation to be constitutional, it must be *reasonably related to legitimate penological interests* rather than an *exaggerated response to prison concerns*. The regulation must make sense; it must be reasonable and logical. For example, if the prison is concerned with safety during meal times—a legitimate penological interest, it would be reasonable and logical to use only plastic knives and ban metal knives. But, it would be an exaggerated response to ban all utensils, even plastic spoons, and force the inmates to eat all meals with their hands.

In determining whether the challenged regulation is reasonably related to legitimate penological interests, the court will consider each of the following four factors:

1. Whether ordering the jail to change its policy will impact other prisoners' or guards' safety or liberty or if it will impact the allocation of prison resources. *If yes, this weighs in favor allowing the jail to keep its policy.*
2. Whether prison officials have easy and obvious alternatives to the regulation. *If yes, this weighs in favor of making the jail change its policy.*
3. Whether the inmates can exercise their affected rights in another way. *If yes, this weighs in favor of allowing the jail to keep its policy.*
4. Whether the regulation relates to a government goal (e.g. safety) that is unrelated to the content of the expression. *If yes, this weighs in favor of allowing the jail to keep its policy.*

***This Notes Section and Law Section shall not be used as evidence in the trial.***

## **Background Information**

1. When reading the Answer, each numbered paragraph corresponds to the similarly numbered paragraph in the Complaint. For example, paragraph 2.1 in the Answer relates to paragraph 2.1 in the Complaint. Where the Defendant admits or denies an allegation in the answer, the admission or denial only relates to the similarly numbered paragraph in the complaint.
2. Background information for Thomas Davis and Austin Cahill. Davis was an inmate at Redwood County Jail between October 15, 2010 and September 4, 2011. Cahill, who is still an inmate at the time of trial, has been at the Redwood County Jail since January 20, 2011. Davis and Cahill have been residents of Redwood County since they were born. They were both imprisoned for non-violent crimes. There is nothing in either of their backgrounds or past conduct at the jail to indicate they present a heightened security risk. At all times during their imprisonment, Davis and Cahill were members of the general inmate population.
3. Background information for Betty Pale: She is a resident of Spokane, Washington, which is approximately 400 miles by car from the Redwood County Jail. Pale has been a resident of Spokane since she was born. Pale is a retired schoolteacher. She is active in her community and participates in political rallies whenever she has time.
4. This is the only background information you need. We recognize a typical mock trial packet often has additional background information about the witnesses. For the purposes of this exercise, you do not need any additional information. You should focus on the substantive issues contained herein.

***This Background Information Section should not be used as evidence in the trial.***

**COMPLAINT**

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

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

Plaintiff,

v.

REDWOOD COUNTY; REDWOOD  
COUNTY SHERIFF’S OFFICE; KEVIN  
PARSON, individually and in his capacity  
As Redwood County Sheriff,

Defendants.

No. CV 12-0071-SI

**COMPLAINT**

DEMAND FOR JURY TRIAL

**I. NATURE OF THE CASE**

1.1 Plaintiff Prison Legal News, a project of the Human Rights Defense Center, brings this action to enjoin Defendants' censorship of Prison Legal News' monthly publication, and correspondence mailed to prisoners who are held in custody at the Redwood County Jail, in violation of the First Amendment and the Fourteenth Amendment's Due Process Clause. Defendants have adopted and implemented written mail policies and practices that unconstitutionally restrict correspondence to and from prisoners to postcards only, and that prohibit delivery of, among other things, letters, books and magazines to prisoners. Further, Defendants' policies and practices do not afford due process notice and an opportunity to challenge the censorship as required by the Constitution.

**II. PARTIES**

2.1 Plaintiff Prison Legal News (PLN) is a project of the Human Rights Defense Center (HRDC), a Washington Non-Profit Corporation. The core of HRDC's mission is public

education, prisoner education, advocacy, and outreach in support of the rights of prisoners and in furtherance of basic human rights. PLN publishes and distributes a monthly journal of corrections news and analysis and certain books about the criminal justice system and legal issues affecting prisoners, to prisoners, lawyers, courts, libraries, and the public throughout the Country. PLN also maintains a website ([www.prisonlegalnews.org](http://www.prisonlegalnews.org)) and operates an email list. Prisoners of all types, family and friends of prisoners, and prisoner advocates, are among the intended beneficiaries of PLN's activities.

2.2 Defendant Redwood County is a municipal corporation formed under the laws of the State of Oregon.

2.3 Defendant Redwood County Sheriffs Office is a department of Redwood County and operates the Redwood County Jail located in St. Helens, Oregon. The Redwood County Jail facility houses convicted prisoners and pretrial detainees.

2.4 Defendant Kevin Parson is the Sheriff of Redwood County. Sheriff Parson is employed by and is an agent of Redwood County and the Sheriff's Office. He is responsible for the operations of the Redwood County Jail, and the training and supervision of the Jail staff who interpret and implement the Jail's mail policy for prisoners. He is the policymaker for the Jail policy governing mail for prisoners.

2.5 Each of the acts and omissions of persons alleged herein were taken under color of state law and within the scope of their official duties as employees and officers of Redwood County and the Redwood County Sheriffs Office.

### **III. FACTUAL ALLEGATIONS**

3.1 Prison Legal News publishes and distributes a soft-cover monthly journal, and publishes and distributes paperback books about the criminal justice system and legal issues affecting prisoners.

3.2 Prison Legal News has approximately 7,000 subscribers in the United States and abroad, including prisoners, attorneys, journalists, public libraries, judges, and other members of the public. PLN distributes its publication to prisoners and law librarians in approximately

2,200 correctional facilities across the United States, including the Federal Bureau of Prisons and the Oregon Department of Corrections.

3.3 Prison Legal News sent its monthly journal to certain prisoners at the Redwood County Jail by U.S. Mail.

3.4 PLN's monthly journal is a 56-page publication titled *Prison Legal News: Dedicated to Protecting Human Rights* and contains various articles on corrections news and analysis, prisoner rights, court rulings, and prison conditions.

3.5 On February 10, 2011, PLN mailed its February 2011 *Prison Legal News* publication addressed to Thomas Davis. On March 10, 2011, PLN mailed its March 2011 *Prison Legal News* publication addressed to Thomas Davis. On April 10, 2011, PLN mailed its April 2011 *Prison Legal News* publication addressed to Thomas Davis. Thomas Davis was a prisoner at the Redwood County Jail at the time that the Jail received the February 2011, March 2011, and April 2011 *Prison Legal News* publications from PLN.

3.6 Prison Legal News also sent informational brochures and subscription forms, book catalogs, and book offers (collectively "PLN Brochure Pack") to certain prisoners at the Redwood County Jail by U.S. Mail.

3.7 On May 1, 2011, PLN sent Thomas Davis the PLN Brochure Pack. At the time the Jail received the PLN Brochure Pack, Thomas Davis was a prisoner at the Redwood County Jail.

3.8 Defendants rejected PLN's February 2011 and April 2011 *Prison Legal News* publications and February 2011 PLN Brochure Pack, and did not deliver the publications to the prisoner-addressee. For the items that Defendants returned to Prison Legal News, Defendants: (a) placed a sticker on the mail stating: "As of April 1, 2010 The Redwood County Jail ONLY ACCEPTS POSTCARDS, This applies to ALL incoming and outgoing mail"; (b) stamped the mail "INSPECTED BY REDWOOD COUNTY JAIL" and handwrote checkmarks next to "RETURN TO SENDER" and "REFUSES/VIOLATES SECURITY"; or (c) stamped the mail "RETURN TO SENDER."



3.9 An individual, Betty Pale, sent legal articles that she printed off of PLN's website to certain prisoners at the Redwood County Jail in standard #10 envelopes via U.S. Mail.

3.10 The legal articles mailed by Ms. Pale to prisoners at the Redwood County Jail included a critique of prison privatization, and research finding about the goals and results of the move toward privatization.

3.11 In December 2011, Ms. Pale mailed PLN online articles to 15 prisoners at the Redwood County Jail. The Defendants rejected the articles and did not deliver them to the prisoners to which they were addressed by name.

3.12 For the PLN articles that Defendants returned to Ms. Pale, Defendants: (a) placed a sticker on the mail stating: "As of April 1, 2010 The Redwood County Jail ONLY ACCEPTS POSTCARDS, This applies to ALL incoming and outgoing mail"; (b) stamped the mail "INSPECTED BY REDWOOD COUNTY JAIL" and handwrote checkmarks next to "RETURN TO SENDER" and "REFUSES/VIOLATES SECURITY"; or (c) stamped the mail "RETURN TO SENDER."

3.13 Effective April 1, 2010, Defendants implemented a policy titled "Redwood County Jail Mail Policy J603-R02," which requires all incoming and outgoing mail to prisoners to be in postcard form (hereinafter "Postcard-Only Mail Policy"). *See Exhibit A.*

3.14 The Jail's Postcard-Only Mail Policy states, in pertinent part, "Incoming Mail will be only accepted in the form of commercially produced postcards or a photograph used as a postcard." *See Exhibit A.*

3.15 In addition, Defendants sometimes place a sticker on returned mail, which states: "As of April 1, 2010 The Redwood County Jail ONLY ACCEPTS POSTCARDS. This applies to ALL incoming and outgoing mail"

3.16 Defendants have used their Postcard-Only Mail Policy to refuse Plaintiff's *Prison Legal News* journal, online articles, and other correspondence.

3.17 Defendants have used their Postcard-Only Mail Policy to refuse correspondence from other publishers, companies, organizations, prisoners and individuals. For example,

Defendants rejected numerous PLN articles that Betty Pale printed from the PLN website and mailed to certain prisoners at the Redwood County Jail. The Jail's stated justification for rejection was that "the Redwood County Jail ONLY ACCEPTS POSTCARDS" or "no envelope mail" as the reason for rejection.

3.18 Defendants' Postcard-Only Mail Policy and their practice of enforcing this policy unconstitutionally burdens Plaintiff's First Amendment rights, the First Amendment rights of other correspondents who send mail to prisoners confined at the Redwood County Jail, the First Amendment rights of the intended recipients of outgoing mail from prisoners confined at the Redwood County Jail, and the First Amendment rights of prisoners at the Redwood County Jail.

#### **IV. CLAIM ALLEGATIONS**

4.1 Plaintiff realleges and incorporates by reference the preceding paragraphs.

4.2 The acts described above constitute violations of Plaintiff's rights, the rights of other correspondents who have attempted to or intend to correspond with prisoners at the Redwood County Jail, and the rights of prisoners confined at the Redwood County Jail, under the First Amendment to the United States Constitution.

4.3 The acts described above have caused damages to Plaintiff, and will continue to cause damage.

#### **V. REQUEST FOR RELIEF**

WHEREFORE, the Plaintiff requests relief as follows:

5.1 A preliminary injunction and a permanent injunction preventing Defendants from continuing to violate the Constitution by limiting prisoner correspondence to postcards.

5.2 A declaration that Defendants' policies, practices and customs violate the Constitution.

**ANSWER**

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

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

v.

REDWOOD COUNTY; REDWOOD  
COUNTY SHERIFF’S OFFICE; KEVIN  
PARSON, individually and in his capacity  
As Redwood county Sheriff,  
Defendants.

No. CV 12-0071-SI

**ANSWER**

DEMAND FOR JURY TRIAL

Defendants deny each and every allegation of Plaintiff’s Complaint except admitted in this Answer.

**I. NATURE OF THE CASE**

1.1 Deny.

**II. PARTIES**

2.1 Admit that Human Rights Defense Center is a Washington non-profit corporation. Admit that Prison Legal News (“PLN”) publishes and distributes a monthly publication of corrections news and analysis and certain books about the criminal justice system and legal issues affecting prisoners. Admit that PLN maintains a website. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remainder in ¶ 2.1

2.2 Admit.

2.3 Admit.

2.4 Admit.

2.5 Admit.

### III. FACTUAL ALLEGATIONS

3.1 Admit.

3.2 Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in 3.2, therefore they are denied.

3.3 Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in 3.3, therefore they are denied.

3.4 Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in 3.4, therefore they are denied.

3.5 Admit.

3.6 Admit.

3.7 Admit.

3.8 Admit.

3.9 Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in 3.9, therefore they are denied.

3.10 Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in 3.10, therefore they are denied.

3.11 Admit.

3.12 Admit.

3.13 Admit.

3.14 Admit.

3.15 Admit.

3.16 Admit.

3.17 Admit.

3.18 Deny.

#### **IV. CLAIM ALLEGATIONS**

- 4.1 Defendants re-allege and incorporate herein each answer included in 1.1-3.18.
- 4.2 Deny.
- 4.3 Deny.

## **UNITED STATES CONSTITUTION**

**Amendment I.** Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

**DECLARATION OF THOMAS DAVIS**

I, Thomas Davis, hereby declare as follows:

1. I am over the age of 18, am competent to testify, and make this Declaration based on my personal knowledge.

2. By letter dated August 18, 2011, from the law firm MacDonald, Rudy, and Bales, I received and reviewed the documents described below.

3. My check marks (✓) below indicate whether I received or did not receive mailings from Prison Legal News (PLN) when I was a prisoner at the Redwood County Jail, and whether I received or did not receive written notice from the Jail that mail addressed to me was rejected.

4. **EXHIBIT B** (sample front and back of *Prison Legal News* journal)

\_\_\_ I **RECEIVED** PLN's 56-page journals as indicated by my check marks (✓)

below next to the date of the issues(s) I received:

\_\_\_ January 2011

\_\_\_ February 2011

\_\_\_ March 2011

\_\_\_ April 2011

\_\_\_ May 2011

or

✓ I did **NOT** receive **ANY** copies of PLN's 56-page monthly journals.

*If you did **NOT** receive one or more of the PLN journals listed above, please indicate whether you received written notification that the journal(s) was rejected by the Jail:*

✓ I did **NOT** receive written notification that the Redwood County Jail rejected *Prison Legal News* journals addressed to me; or

\_\_\_ I **RECEIVED** written notification **EVERY TIME** the Redwood County Jail rejected *Prison Legal News* journals addressed to me; or

\_\_\_ I **RECEIVED** written notification **SOMETIMES**, but not every time, when the Redwood County Jail rejected *Prison Legal News* journals addressed to me.

5. **EXHIBIT C** (PLN Brochure Pack - 3 single-page double-sided brochures)

(i) PLN Brochure and Subscription Order Form

(ii) 2010 PLN Book List

(iii) PLN Brochure about two books for sale

\_\_\_ I **RECEIVED** Exhibit C from PLN; or

I did **NOT** receive Exhibit C from PLN; and

I did **NOT** receive written notification that the Redwood County Jail rejected Exhibit C; or

\_\_\_ I **RECEIVED** written notification that the Redwood County Jail rejected Exhibit C.

6. I was a prisoner in the Redwood County jail between October 15, 2010 and September 4, 2011.

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

Respectfully submitted this 24th day of August, 2011.



## **DECLARATION OF BETTY PALE**

I, Betty Pale, hereby declare as follows:

1. I am over the age of 18 and I am competent to testify. The statements of fact contained herein are based on my own personal knowledge and belief.
2. I am a resident of the state of Washington.
3. On December 15, 2011, I visited the Prison Legal News website ([www.prisonlegalnews.org](http://www.prisonlegalnews.org)) and printed multiple copies of the same article titled “The Failed Promise of Prison Privatization” to send to prisoners at the Redwood County Jail. I enclosed the printed articles in separate envelopes and sent them to specific prisoners at the Redwood County Jail in standard sized #10 envelopes with appropriate postage affixed to each one.
4. The Redwood County Jail rejected the articles I mailed and returned the rejected mailings to me, as described below:

Exhibit D is an envelope I sent to prisoner Steven Adams at the Redwood County Jail on December 15, 2011. Exhibit E is the first page of a 7-page article contained in the envelope. I printed the article from the Prison Legal News website. The jail returned the envelope and article to me. The returned envelopes is stamped and marked “INSPECTED BY REDWOOD COUNTY JAIL,” “RETURN TO SENDER,” and “CONTRABAND.”

5. I sent eleven other envelopes and articles like the one I sent to Steven Adams to other prisoners at the Redwood County Jail. They were all returned to me, as described in number 4 above.

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

Respectfully submitted this 25th day of January, 2012.

## **DECLARATION OF ELIZABETH HEWITT**

I, Elizabeth Hewitt, declare as follows:

1. I am over the age of 18 and I am competent to testify. The statements of fact contained herein are based on my personal knowledge.
2. Since 1990 I have been the editor and co-founder of Prison Legal News ("PLN"), which publishes a monthly magazine of the same name, maintains a website, operates an email list, distributes books of interest to prisoners and publishes self-help, non-fiction reference books.
3. Prisoners of all types (from pre-trial detainees to convicts), family and friends of prisoners, and prisoner advocates, are among the intended beneficiaries of PLN' s activities.
4. I am frequently contacted by individuals who are concerned about the health and well-being of one or more prisoners, and who are seeking information or materials from PLN on issues related to prisoners' rights.
5. PLN's website, [www.prisonlegalnews.org](http://www.prisonlegalnews.org). gets approximately 100,000 unique visitors per month. The website contains over 23,000 articles, 9,000 court opinions, and 5,000 legal documents in its brief bank and in excess of 4,000 documents in its publications library. The PLN website is the largest online repository of data related to detention facility news and litigation in the world. It is updated on a daily basis.
6. Since prisoners do not generally have access to the internet, they rely on friends, family members and other supporters who are not incarcerated to download and print articles from PLN's website and mail those documents to the prisoners in jails or prisons.
7. PLN has purposely designed its website so that non-prisoners can research topics of interest and importance to prisoners, and then download, print and mail the information to

prisoners because PLN lacks the resources to communicate this information individually to each and every prisoner who desires it.

8. In fact, PLN's website invites anyone who corresponds with prisoners to utilize the material on the website to educate prisoners. The website states: "Prisoners generally do not have internet access. We encourage the distribution of information on our website to incarcerated persons by printing it out and mailing it to them. If you are volunteering your time to research a topic for someone in prison, jailor other detention facility please feel free to print out articles and send them to the prisoner."

9. The Redwood County Jail's adoption of its Postcard-Only Policy means that no family member, no friend, nor any other concerned individual can ever utilize PLN's website to print and mail information from PLN's website or listserv to prisoners in custody in the Jail. The policy prevents prisoners from receiving free material on the PLN website about prisoners' criminal or civil legal rights, about health and safety issues in Jail, about reasonable accommodation or treatment of medical or mental health issues, about their right to effective assistance of counsel and how to represent themselves in court, or about a host of other important issues to prisoners.

10. Without question, Defendants' Postcard-Only Policy prohibiting family, friends, and other individuals from mailing to prisoners materials printed off PLN' s website frustrates PLN's core mission of educating prisoners.

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

Respectfully submitted this 12th day of March, 2012.

## **DECLARATION OF KATHERINE CAHILL**

I, Katherine Cahill, declare and affirm as follows:

1. I am over the age of 18 and I am competent to testify. The statements of fact contained herein are based on my own personal knowledge.
2. I am Austin Cahill's mother. Austin has been incarcerated at the Redwood County Jail since February 2011.
3. I wrote many letters to Austin while he was incarcerated in other correctional facilities. I value being able to stay in touch with Austin. It is important to me that Austin is able to share his concerns with me without being concerned about privacy.
4. The Postcard-Only Policy at the Redwood County Jail has been very frustrating for me. I have a lot to share with Austin. It seems like as soon as I start writing a message to Austin on a postcard I have to end my message because of the size limitations, unless I send multiple postcards which means I have to buy additional stamps.
5. I am concerned about the lack of privacy. I don't want to share confidential information with Austin on a postcard that people I don't know can read. He told me he has the same privacy concerns, and does not feel he can communicate with me about matters that he feels are confidential.
6. Conforming my communications with Austin to the Jail's restrictive Postcard-Only Policy is a hassle. I don't ordinarily have postcards on hand and have to make a special trip to the post office or the souvenir section in a store to buy postcards. They can be more expensive than stationary which can get spendy. I tried making my own, using card stock from the craft store, but the Post Office returned the postcards to me as unacceptable, which only added to my frustration.

7. I do not drive, so it is difficult for me to visit Austin in person. The letters we wrote to each other when he was incarcerated at other facilities in the past were our primary means of communication. The Jail's Postcard-Only Policy has severely limited our ability to communicate with each other.

8. I am very fortunate in that Austin is not only my son but my good friend. I miss him very much. Every week I wish I could write him a letter, but I know I can't.

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

Respectfully submitted this 3rd day of March, 2012.

## **DECLARATION OF AUSTIN CAHILL**

I, Austin Cahill, declare and affirm as follows:

1. I have been incarcerated in the Redwood County Jail since February 2011.
2. The Redwood County Jail has had a Postcard-Only Mail Policy for as long as I've been incarcerated here.
3. The Jail's Postcard-Only Mail Policy deters me from communicating with my friends and family by mail because anyone who handles the postcards can read my messages.
4. There is no privacy. When talking with me Columbia County Jail Staff have referred to statements written in my mail so I know they have read my mail.
5. I have also refrained from communicating with my pastor because of the Postcard-Only Policy. I do not want the jail staff or others to read my private communications with my pastor.
6. The Postcard-Only Mail Policy has also made it difficult for me to communicate with my friends and family because a postcard is so small. There is not enough room to communicate the information I would like to send to my family and friends.

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

Respectfully submitted this 14th day of February, 2012.

## **DECLARATION OF KEVIN PARSON**

I, Kevin Parson, declare as follows:

1. I have been Redwood County Sheriff since January 1, 2009, and I make this declaration from my personal knowledge.

2. Prior to taking office as Sheriff, I was a state police officer with the Department of Oregon State Police for twenty years. During that time, I served approximately fifteen years in patrol and five years as a detective assigned to a federal task force under the Bureau of Alcohol, Tobacco and Firearms.

3. My duties as Sheriff include establishing jail procedures at the Redwood County Jail.

4. The corrections staff at the Jail currently consists of sixteen correction deputies and five supervising corrections deputies. Due to budget constraints in the past few years, the five supervising deputies fill deputy shifts and not supervisor shifts.

5. A typical corrections shift currently has four deputies. The booking deputy on the swing shift processes and inspects all incoming and outgoing mail on a daily basis for compliance with the Jail's mail policy. The booking deputy's other essential duties are communicating with intake officers, booking arrestees into the Jail (fingerprinting, searching, etc.), and monitoring inmates on suicide watch as well as inmates who are at the Jail for a short period of time or who cannot yet be placed in the general population.

6. The control room deputy manages all movements in the Jail. Many inmate movements within the Jail, such as movements for medical appointments, attorney conferences, family visits, and court transports are not accompanied by an escort. Instead, the control room deputy monitors these movements by video and locks and unlocks doors remotely. This deputy also

monitors dozens of cameras inside and outside the Jail and controls ingress and egress to the Sheriff's Office.

7. Two corrections deputies serve as roving deputies. Their duties are to check on inmates every forty-five minutes, distribute food, handle inmate requests, distribute and pick up inmate mail, and monitor inmates during common and recreation periods.

8. The Jail has the capacity for up to 255 inmates. Due to budget constraints that came about in 2010, the current funded capacity of the Jail is 150 inmates. I had to reduce staff in 2010 and 2011, and, unfortunately, I may have to implement additional reductions in 2012 depending upon future budget cuts.

9. I first learned about the postcard only policy during an Oregon State Sheriff's Association meeting, where the sheriff from Washington County discussed his reasoning for implementing the policy. He stated that Washington County purchased all the postcards so it was less of an expense to the inmates. He also talked about the postcard only policy helps protect the safety and security of the building. He also talked about cost savings and mentioned that the post card only policy can help with time saving as well.

10. Due to budget constraints, we have had to reduce the number of staff who work on each shift and increase the number of responsibilities each staff member has during their shift. To help staff manage their responsibility, I decided it was in the best interest to instate the postcard only policy because it reduced the time it takes to inspect incoming and outgoing mail by 1½ to 2 hours per day. Additionally, I believe this policy helps keep our inmates and facility safe.

11. Exhibit A is a true and accurate copy of the Redwood County Sheriff's Office Inmate Mail Policy J603-R02, effective January 1, 2010.



12. Without the postcard mail policy, the time spent inspecting incoming and outgoing personal inmate mail would greatly increase, reducing the time available to staff for other tasks that are just as essential, and sometimes more essential, than inspecting the mail each day.

13. The Jail has limited resources available to assist inmates in conducting personal business. The Jail encourages third parties to deposit money into an inmate's jail account through the TouchPay system or call a toll-free phone number. Inmates can also visit the Sheriff's Office and deposit money into a kiosk in the front office. Cash, VISA, and MasterCard are accepted. If third parties cannot transact personal business on behalf of an inmate, the inmate may conduct this business with the approval of the jail sergeant.

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

Respectfully submitted this 13th day of February, 2012.

## **DECLARATION OF JEREMY MEYER**

I, Jeremy Meyer, declare as follows:

1. I have worked for the Redwood County Sheriff's Office as a Sergeant at the Redwood County Jail (the Jail) for the past twelve years.
2. During my shifts at the Redwood County Jail I sometimes work as the booking deputy. As the booking deputy, one of my responsibilities is reviewing all incoming and outgoing mail.
3. On January 2, 2010, Sheriff Parson held a staff meeting regarding the new mail procedures. All sheriff deputies attended, including any staff members who handle mail. We were instructed to inform any volunteers who handle mail of the new policy.
4. Part of the new policy requires that if mail is returned, confiscated, or destroyed, the inmate and sender must be notified of the reasons for the violation and of the informal appeal process. We use the Prohibited Mail Notice slip to make this notification. Exhibit F is a copy of a blank Prohibited Mail Notice slip.
5. Contraband, which can include bodily fluids, lipstick, perfume, glue, paint, and unidentifiable substances because they are bio-hazards and can contain bio-hazards, is prohibited in the Jail, and may not enter via the mail. These substances are prohibited because they can contain hazardous or illegal materials. If contaminants enter the inmate holding areas, they can spread quickly. Contraband inside the Jail undermines security and safety of the inmates and staff.
6. We also inspect mail to determine if it contains threats of physical harm, blackmail, extortion, other criminal activity, sexually explicit material, gang-related material, and plans for escape or other violations of jail rules. Inmates are not allowed to view mail that contained this information because it would undermine the security and safety of the inmates, staff, and public.

7. Mail in sealed envelopes can hide contraband that cannot be hidden when the mail is in the form of a postcard.

8. Envelopes containing multiple pieces of paper can hide contraband such as needles, blades, similar weapons, and handcuff keys.

9. A variety of drugs, such as heroin, PCP, LSD, marijuana, cocaine, and powdered prescription drug pills, can be hidden under a postage stamp.

10. Postcards are easier and quicker to inspect for contraband and prohibited content than multiple sheets of paper in an envelope because contraband is easier to detect on a postcard and there is less area to inspect. The risk of prohibited substances entering the Jail is reduced by the use of postcards for personal mail.

11. In my experience, personal mail sent from an inmate's family or friends is more likely to contain the prohibited content mentioned in paragraph 6 of this declaration.

12. There is no prohibition on the number or frequency of postcards that an inmate may send or receive. Persons seeking to communicate with inmates may use alternative means of communication as well. They can come to the Jail during visiting hours or speak to inmates on the telephone during designated times.

13. Inmates can use the prison's library to read magazines, newspapers, and books. Inmates can submit requests to the library to order certain books or publications. The library currently carries two copies of the Prison Legal News publication.

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

Respectfully submitted this 6th day of January, 2012.

## **DECLARATION OF BRYAN CUTRIGHT**

I, Bryan Cutright, declare and affirm as follows:

1. I am over the age of 18 and I am competent to testify. The statements of fact contained herein are based on my own personal knowledge
2. I am a Sergeant at the Redwood County Jail (the Jail). I have worked for the Redwood County Sheriff's Office for about seventeen years, all of which was at the Jail. The statements in this declaration are based on my personal knowledge.
3. I am familiar with how the corrections staff at the Jail inspects mail. I estimate that we receive about fifty pieces of mail per day addressed to inmates. Approximately ten to fifteen pieces of mail are legal mail. The rest of the mail is primarily personal mail from an inmate's family or friends. Both legal or personal mail must be inspected thoroughly for contraband and personal mail must be inspected for prohibited content. This means we read the inmates' personal mail. Each piece of mail is scanned via the use of a bar code scanner as incoming or outgoing mail. I estimate that inmates send about forty pieces of mail per day to whomever they wish.
4. Before the postcard policy was implemented in 2010, the Jail received personal mail in envelopes of a variety of sizes. The envelope was opened and the envelope and papers inside were inspected for contraband, such as sticky substances or prohibited items. Both sides of the paper were inspected to see if prohibited content was discussed. The inmates used pencil and notepad paper to draft letters. Their outgoing mail was inspected for contraband and for prohibited content. Although there is less risk that outgoing mail contains contraband, it still must be inspected. On average, the booking deputy spent 1.5 to 3 hours of his or her shift on inspecting the incoming and outgoing mail, depending on the volume of mail. However, because

people could send envelopes in a variety of sizes, some letters inmates received would be very long. Once, I had to sort through an envelope that contained 205 pages of Internet articles.

5. In January 2010, when the Jail began to require most incoming and outgoing mail be on a postcard, the time it took the booking deputy to inspect incoming and outgoing mail was reduced by one-third (approximately 30 to 60 minutes depending on the volume of mail). Some of the factors making inspecting postcard-sized mail quicker are: (a) postcards are easy to hold in one's hand (b) postcards are easy to turn over to inspect both sides (c) postcards are on thick paper, which makes them durable and (d) it is easier and quicker to scan postcards than other types of papers such as notepad paper. There is also less risk of contraband being present because a postcard is a standard-sized single piece of paper; contraband—such as bodily fluids and small metal objects—can be hidden between sheets of paper.

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

Respectfully submitted this 20th day of February, 2012.

## **Exhibit A**

### **Redwood County Jail Mail Policy J603-R02**

---

**REDWOOD COUNTY SHERIFF'S OFFICE**  
Jail Operations  
Kevin Parson, Sheriff

**Effective January 1, 2010**

---

#### **Policy**

It is the policy of the Redwood County Sheriff's Office to provide for and encourage the maintenance of important ties of inmates with families, friends, attorneys, and the community by the use of U.S. Mail. All incoming and outgoing mail is subject to search and/or scanning for the purpose of safety and security of the jail.

#### **Regulations**

1. Personal mail is limited to postcards 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.
2. "Personal mail" is defined as postcards mailed to and from family, friends, organizations, businesses, or other unofficial entities.
3. This mail policy does not apply to communications with the court or with the inmate's attorneys.

#### **Violations**

1. The jail must determine whether incoming mail violates the jail mail policy. This determination must be made on a case-by-case basis.
2. If incoming mail violates this Jail Mail Policy, staff can return, confiscate, or destroy the prohibited items. Staff may return prohibited mail to a sender if it is in the best interest of the jail not to store it (e.g. perishables). Staff may also confiscate prohibited items. Staff can destroy any item that presents a health or safety risk if it were to be stored in the jail or returned to sender.
3. Staff must notify both inmate and sender of the violation, action taken (return, confiscate, destroy), and provide information on an informal appeal process. Staff should use a

“Prohibited Mail Slip” for the notification. (*See Exhibit F*) The only exception to the notice requirement is if the prohibited item is evidence in a jail disciplinary action or a crime.

4. 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 post office.
5. To return unopened mail (other than postcards), a mail handler will use the ‘return to sender’ stamp. To return mail that has been opened, a mail handler will repackage the mail and return it to the sender at the expense of the jail. The mail handler will include a copy of the Returned Mail form letter.

### **Appeals**

If sender of mail believes the correspondence was improperly denied, the sender may appeal the decision by sending in a written letter stating the reasons sender believes the decision was wrong within 15 days from the date of receipt of the Prohibited Mail Slip. The jail will send a decision on appeal within 15 days of receiving it. Please direct your written appeal to: [address for the jail commander].

## Exhibit B

Sample Front and Back Pages of Prison Legal News Publication

# PRISON Legal News

VOL. 22 No. 4

ISSN-1075-7678

*Dedicated to Protecting Human Rights*

April 2011

## Nationwide *PLN* Survey Examines Prison Phone Contracts, Kickbacks

by John E. Dannenberg

An exhaustive analysis of prison phone contracts nationwide has revealed that with only limited exceptions, telephone service providers offer lucrative kickbacks (politely termed “commissions”) to state contracting agencies – amounting on average to 42% of gross revenues from prisoners’ phone calls – in order to obtain exclusive, monopolistic contracts for prison phone services.

These contracts are priced not only to unjustly enrich the telephone companies by charging much higher rates than those paid by the general public, but are further inflated to cover the commission payments, which suck over \$152 million per year out of the pockets of prisoners’

families – who are the overwhelming recipients of prison phone calls. Averaging a 42% kickback nationwide, this indicates that the phone market in state prison systems is worth more than an estimated \$362 million annually in gross revenue.

In a research task never before accomplished, *Prison Legal News*, using public records laws, secured prison phone contract information from all 50 states (compiled in 2008-2009 and representing data from 2007-2008). The initial survey was conducted by *PLN* contributing writer Mike Rigby, with follow-up research by *PLN* associate editor Alex Friedmann.

The phone contracts were reviewed to determine the service provider; the kickback percentage; the annual dollar amount of the kickbacks; and the rates charged for local calls, intrastate calls (within a state based on calls from one Local Access and Transport Area to another, known as interLATA), and interstate calls (long distance between states). To simplify this survey, only collect call and daytime rates were analyzed.

Around 30 states allow discounted debit and/or prepaid collect calls, which provide lower prison phone rates (much lower in some cases). However, since other states don’t offer such options and not all prisoners or their families have access to debit or prepaid accounts, only collect calls – which are available in all prison systems except Iowa’s – were compared. Also, while telephone companies sometimes provide reduced rates for evening and nighttime calls, many prisoners don’t have the luxury of scheduling phone calls during those time periods.

Lastly, it should be noted that more

recent phone rates may now be in effect due to new contract awards or renewals, and while data was obtained from all 50 states, it was not complete for each category. See the chart accompanying this article for a breakdown of the data obtained.

*PLN* has previously reported on the egregious nature of exorbitant prison phone rates, notably in our January 2007 cover story, “Ex-Communication: Competition and Collusion in the U.S. Prison Telephone Industry,” by University of Michigan professor Steven Jackson.

### How Are Phone Rates Regulated?

Domestic phone calls are generally divided into three categories: local, intrastate and interstate. The rates charged for these calls depend on several factors and are regulated by different authorities. Local calls are usually flat-rate within a small area around the call’s originating location; e.g., within the same city.

Local and intrastate calls are often regulated by state public utility or service commissions, which set rate caps. These caps are negotiated to allow phone companies to recover capital costs in a reasonable time frame while also satisfying requirements levied by the state. The latter include subsidizing low-income phone users, providing emergency communications for state agencies, and providing required phone coverage (such as emergency-reporting phone booths along major highways). Obviously, some of these state-mandated requirements are not in and of themselves profitable, so negotiation of rate structures includes recouping these otherwise nonrecoverable costs.

At the interstate level, phone com-

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## Prison Legal News

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# Exhibit C

## Sample First Page of Brochure

### Order Form

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3 yr Sub (Circle bonus book above or 4 Bonus issues) \_\_\_\_\_

4 yr Sub (Circle bonus book above or 6 Bonus issues) \_\_\_\_\_

Sample Issue - \$3.50 each \_\_\_\_\_

**TOTAL Amount Enclosed** \_\_\_\_\_

Send to: \_\_\_\_\_

Name: \_\_\_\_\_


DOC #: \_\_\_\_\_

Agency/Inst: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

**MAIL PAYMENT AND THIS FORM TO:**



**Prison Legal News**  
P.O. Box 2420  
Brattleboro, VT 05303

Purchase by phone with a Visa or MasterCard  
**802-257-1342**  
Or buy books and subscriptions online at  
**www.prisonlegalnews.org**

### PLN Subscription Rates

Subscription Rates	1 yr	2 yrs	3 yrs	4 yrs
Prisoners *	\$24	\$ 48	\$ 72	\$ 96
Individuals	\$80	\$ 60	\$ 90	\$120
Professionals	\$80	\$160	\$240	\$320

(Lawyers, govt. & professional agencies, libraries, etc.)

Sample issue for anyone - \$3.50 each \*

Six-month prisoner subscription for \$12\*

\* Prisoners can pay with new first-class stamps (stamps or books only) or pre-stamped envelopes, if allowed by prison policies.

### Subscriptions/Bonuses!

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3 years - 4 bonus issues (40 total) *OR* *Protecting Your Health and Safety* (see book description on the other side of this brochure).

4 years - 6 bonus issues (64 total) *OR* your choice of *With Liberty for Some* or *Prison Profiteers* (see descriptions on the other side).

### New 3 or 4-Year Subscription Book Offers!

Subscribe or renew for three years at the regular price (\$72 for prisoners & \$90 for individuals), and receive as a FREE bonus, *Protecting Your Health and Safety* or four bonus issues of PLN! (40 monthly issues total). Indicate your choice on the Order Form.

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Eastern State Penitentiary 1829-1971

Charles Dickens visited Philadelphia's Eastern State Penitentiary in 1842 and he later wrote: "The System is rigid, strict and hopeless ... and I believe it to be cruel and wrong....I hold this slow and daily tampering with the mysteries of the brain to be immeasurably worse than any torture of the body." The prison remained open for 129 years after Dickens condemned it as being barbaric, and some of its inhumane practices continue to be used in prisons nationwide.

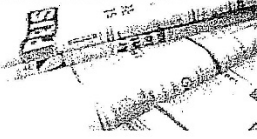
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Exhibit D





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**The Failed Promise of Prison Privatization**

by Richard Culp, Ph.D.

We have been experimenting with prison privatization in the U.S. now for over twenty-five years. The privatization idea originated out of a notion that the private sector, with its competition-driven efficiency and innovation, could operate prisons of higher quality and lower cost than the public sector. Create a market for incarceration services, the argument ran, and the market will work its magic, improving prison conditions and rehabilitative outcomes while saving the taxpayers millions of dollars. That market has effectively been created over the past quarter century and we have now arrived at a place where prison privatization has been studied extensively and evaluated rigorously.

Although hyperbole continues to propel prison privatization policy along, research findings are incontrovertible: even in the best private prisons, quality of prisoner care is no better than in public prisons and the cost advantage of privatization, which initially accounted for minimal savings, is steadily eroding as the private prison industry matures.

The big promises of prison privatization – less cost, higher quality – have simply not materialized. Despite these disappointing results, prison privatization advocacy maintains traction in diverse jurisdictions as policymakers from Ohio to Florida and from Maine to California seek expedient solutions to budget shortfalls triggered by a lingering great recession.

In retrospect, it should come as no surprise that prison privatization would fail to live up to its promises. There are several reasons for this. First, free market solutions to social problems like crime assume, after all, that there are “free” markets for appropriate services. However, there is no such thing as a natural market for the services provided by private prison companies. On the contrary, the marketplace for incarceration services is created by the government, for the government. It is an artificial market. Many of the services that have been privatized by government (e.g., custodial services, food preparation, medical care) are provided by the private sector independently of the government’s decision to privatize or not. There is a free market analogue for many kinds of services that governments routinely provide. Other fields such as education and health care, for example, have an active market of existing nonprofit and for-profit providers willing to sell educational and healthcare services to a huge market of potential buyers that includes both individuals and governments.

The prison business is fundamentally different in that no one can freely purchase incarceration services as a private individual. There is no natural market for incarceration services. The power to incarcerate someone – to hold a person against his or her will – is a defining characteristic of the state. The government holds a monopoly over the legitimate use of physical force and the power to incarcerate. Only the government has the legitimate power to restrict a citizen’s liberty; individuals are prohibited by law from incarcerating another person under “false imprisonment” statutes. The government can delegate this power on a limited basis – for example, “shopkeeper’s privilege” allows merchants to temporarily detain suspected shoplifters. But long-term incarceration is a different matter. The only potential buyers who can legally purchase incarceration services are the government jurisdictions that have custody over indicted, convicted or detained persons. In order to privatize its incarceration function, the government has had to create a market since one does not and cannot exist without its direct intervention.

Secondly, the development of the private prison industry has resulted in a highly concentrated producer market where only four companies control over 90% of the incarceration services business. Economic theory tells us that when production is highly concentrated in very few companies, the market becomes an oligopoly, a market situation that is inherently less competitive and innovative than a market with more broad-based representation. An oligopoly is characterized by interdependence, avoidance of

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12/15/2011

Exhibit F



# Redwood County Sheriff's Office

*Kevin Parson, Sheriff*

## PROHIBITED MAIL NOTICE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_

Because of rules contained in the Columbia County Jail Inmate Mail Policy,  
we are  **returning** or  **confiscating** the  **letter** or  **publication**  
you sent to inmate \_\_\_\_\_, Booking # \_\_\_\_\_

The mail was denied for the following reason(s):

- It is deemed personal mail and not on a post card.
- It contains sexually explicit material
- It contains prohibited material or a foreign substance: \_\_\_\_\_
- It contains plans for escape, criminal activity, or activity that violates jail rules.
- It contains inflammatory materials, such as advocating violence against a group based upon their religion, race, gender or ethnicity.
- Other \_\_\_\_\_

The reverse side of this letter is an Inmate Mail Guide which contains guidance on mail rules and complaint information. You may also go to the jail's web page at [www.co.columbia.or.us/sheriff](http://www.co.columbia.or.us/sheriff) to find the information. The inmate was also notified of this denial and can appeal this decision as well.

**APPEALS:** If you believe that your correspondence/publication was improperly denied, you may appeal the decision by sending in a written letter stating the reasons you believe that the decision was wrong within 15 days from the date of this letter. Your appeal should identify specifically why you believe that our decision to deny the mail was wrong and include your name and return address. You are not required to provide a phone number, but it may be useful if we need further clarification. We will send you a decision on your appeal within fifteen days of receiving it. Please direct your written appeal to:

Jail Commander  
ATTN: Denied Mail Appeal  
Columbia County Sheriff's Office  
901 Port Ave.  
St. Helens, OR 97051

\_\_\_\_\_  
Mail Handler and DPSST #

White - Sender ♦ Yellow - Inmates Jail File ♦ Pink - Inmate