



February 15, 2013

Sent via U.S. Mail

Sheriff Scott Jones
Sacramento County Sheriff's Department
711 G Street
Sacramento, CA 95814

RE: Sacramento County Sheriff's Department Policy regarding postcards-only for all outgoing inmate mail at the Sacramento Main Jail and the Rio Consumes Correctional Center

Dear Sheriff Jones:

We are writing to express our objection to the postcard-only policy newly implemented by the Sacramento County Sheriff's Department (hereinafter "SSD"), effective February 10, 2013, for inmates housed at the Sacramento Main Jail and the Rio Consumes Correctional Center. This policy is deeply flawed, and in some circumstances constitutionally impermissible and in violation of state statute. We urge you to reconsider said policy.

A. Postcard-only policies stymie rehabilitation and have a devastating impact on inmates and their families

Sacramento's policy specifies, *inter alia*, that all incoming mail must either be emailed or be in postcard form only, with a maximum allowable size of only four and a half by six inches. Postcards with crayon markings or stickers are not allowed. This presumably will eliminate an inmate's ability to correspond with pre-literate children who often communicate through color drawings. Additionally, although the policy states that inmates are allowed to receive up to ten photographs, it does not say in what time period, and again limits the size of the photos to only four and a half by six inches. Furthermore, although the policy states that inmates are still able to receive "official mail from the government . . . charities, non-profit, or other organizations," however, no definitions of said terms are provided. Hence, any organization that is not deemed by the SSD to fall into one of those categories will presumably be rebuffed.

Stated plainly, postcards are not the same as letters in an envelope, and will have a deleterious impact on offenders housed in the Sacramento County Jail System. Meaningful correspondence is nearly impossible to achieve in a space of only four and a half by six inches. A forty five cent stamp affords the sender of a traditional letter eight double-sided pages in which to communicate. This is a stark

MICHELLE A. WELSH, CHAIRPERSON | DENNIS MCNALLY, AJAY KRISHNAN, FARAH BRELVI, ALLEN ASCH, VICE CHAIRPERSONS | KENNETH SUGARMAN, SECRETARY/TREASURER
ABDI SOLTANI, EXECUTIVE DIRECTOR | KELLI EVANS, ASSOCIATE DIRECTOR | CHERI BRYANT, DEVELOPMENT DIRECTOR | SHAYNA GELENDER, ORGANIZING & COMMUNITY ENGAGEMENT DIRECTOR
LAURA SAPONARA, COMMUNICATIONS DIRECTOR | ALAN SCHLOSSER, LEGAL DIRECTOR | ALLEN HOPPER, NATASHA MINSKER, NICOLE A. OZER, DIANA TATE VERMEIRE, POLICY DIRECTORS
FRANCISCO LOBACO, LEGISLATIVE DIRECTOR | VALERIE SMALL NAVARRO, SENIOR LEGISLATIVE ADVOCATE | TIFFANY MOK, LEGISLATIVE ADVOCATE | STEPHEN V. BOMSE, GENERAL COUNSEL

contrast to the limited word space of a four and a half by six inch postcard.¹ Furthermore, postcard text is viewable by anyone in sight of it. This includes mail personnel and onlookers at both the point of origin and destination. The writer's privacy is clearly invaded when his or her words are visible to any number of people other than the recipient. This often has the effect of reducing or even eliminating communications simply because the writer wishes a greater degree of privacy. Moreover, postcards are more expensive than plain white paper and an envelope. Each word written on a postcard is approximately thirty four times more expensive as a word written on a piece of paper and mailed in an envelope.² These limitations directly impact the likelihood a friend or relative will correspond with an inmate, and will reduce jail correspondence on the whole. This reduction in, or even possible elimination of, communications from friends and family will have a devastating effect on the inmate while in custody, and reduce the likelihood of successful reentry.

Research demonstrates that allowing inmates to maintain meaningful relationships with family, friends, community, and other sources of support has a direct and unmistakable correlation to successful reentry.³ California criminal justice expert and Stanford Law Professor Joan Petersilia points out,

“Every known study that has been able to directly examine the relationship between a prisoner's legitimate community ties and recidivism has found that feelings of being welcome at home and the strength of interpersonal ties outside prison help predict post-prison adjustment.”⁴

Given that California has a recidivism rate of nearly twice the national average,⁵ implementing policies that have proven successful in reducing recidivism should be a top priority. This is especially true given the responsibilities criminal justice Realignment placed on local sheriffs. Inmates are spending longer periods of time in county jails, and when a person recidivates, he or she is returned to county jail, not state prison.⁶ Additionally, postcard-only policies may even lead to increased incidents of violence, putting both guards and inmates in jeopardy. The Los Angeles County Sheriff's Department, an agency responsible for the largest county jail system in the United States, similarly agreed that postcards-only was dangerous policy. Los Angeles County Sheriff's Department spokesman Steven Whitmore stated, “[w]e believe the mail coming in to inmates is as important as their phone calls. If we were to limit the mail, we believe we would see a rise in mental challenges, maybe even violence.”⁷

¹ Sakala, *Postcard-only Mail Policies in Jail*, Prison Policy Institute, February 8, 2012, pg. 1.

² Id.

³ Id., at pg. 4

⁴ Id., (quoting Petersilia, *When Prisoners Come Home* (2006), pg. 245-246.)

⁵ California Department of Corrections and Rehabilitation, Adult Institutions Outcome Evaluation Report, November 23, 2011, pg. V., available at [http://www.cdcr.ca.gov/adult_research_branch/Research_Documents/ARB_FY_0607_Recidivism_Report_\(11-23-11\).pdf](http://www.cdcr.ca.gov/adult_research_branch/Research_Documents/ARB_FY_0607_Recidivism_Report_(11-23-11).pdf)

⁶ See Cal. Penal Codes § 17.5, §1170(h), and §3450.

⁷ Steve Chawkins, “Ventura County to Restrict Inmates' Mail,” Los Angeles Times, September 23, 2010, <http://articles.latimes.com/2010/sep/23/local/la-me-jail-mail-20100923>

The United States District Court in Oregon put it this way,

“... [A] postcard-only mail policy drastically restricts an inmate’s ability to communicate with the outside world. It prevents an inmate’s family from sending items such as photographs, children’s report cards and drawings, and copies of bills, doctor reports, and spiritual and religious tracts. It prevents an inmate’s friends and other correspondents from sending printed copies of articles published in newspapers, magazines, or the internet. . . . Finally, and most importantly, the postcard-only policy creates a hurdle to thoughtful and constructive written communication between an inmate and his or her unincarcerated family and friends. Prison Legal News v. Columbia County, 2012 WL 1936108, *10 (D.Or.).

The implementation of a postcard-only policy is dangerous and short-sighted. We strongly urge the SSD to reconsider this policy and return to allowing inmates to use paper and envelopes.

B. Postcard-only policies abridge the First Amendment rights of both senders and recipients and are contrary to existing state law.

Postcard-only policies adopted by jails in Colorado, Oregon, and Florida have faced legal challenges on First Amendment grounds.⁸ “Both the addressee as well as the sender of direct personal correspondence derives from the First and Fourteenth Amendment a protection against unjustified governmental interference with the intended communication.” Procunier v. Martinez, 416 U.S. 396, 408-409 (1974). “Publishers have a First Amendment right to communicate with prisoners by mail, and inmates have a First Amendment right to receive this mail.” Prison Legal News v. Lehman, 397 F.3d 692, 698 (2005) (citing Thornburgh v. Abbott, 490 U.S. 401, 408 (1989)).

In order for a correctional ban on mail to be upheld, it must be reasonably related to a legitimate penological interest. Turner v. Safley, 482 U.S. 78, 89 (1987). A regulation cannot be sustained where the logical connection between the regulation and the asserted goal is so remote as to render the policy arbitrary and irrational. Turner, 482 U.S., at 89-90. “A correctional institution may demonstrate a rational relationship by showing an ‘intuitive, common-sense connection between the state’s policy and its objectives.’” Prison Legal News v. Columbia County, 2012 WL 1936108, *9 (D.OR.) (citing Frost v. Symington, 197 F.3d 348, 356 (9th Cir. 1999)).

The SSD alleges in its “Revised Mail Policy,” that the purpose of the newly adopted postcard-only policy is to ensure the safety and security of jail facilities, inmates, and staff. Additionally, the press release posted by the SSD on December 11, 2012 further states that the new policy “will increase efficiency by reducing the amount of time staff will be required to spend processing and screening incoming mail . . .”

In Prison Legal News v. Columbia County, the Federal District Court in Oregon, relying on 9th Circuit precedent rejected a similar postcards-only policy, holding that the goals of safety and efficiency were not rationally related to a postcard-only policy. Prison Legal News v. Columbia

⁸ Reynolds v. Hall, No. 10-cv-355 (N.D. Fla.); Martinez v. Marketa, 2011 U.S. LEXIS 60711 (D. Colo., June 7, 2011); Clay v. Pelle, 2011 U.S. Dist. LEXIS 27630 (D. Colo., Mar. 8, 2011).

County, 2012 WL 1936108, *9 (D.OR.) (hereinafter "Columbia County"), (citing Prison Legal News v. Cook, 238 F.3d 1145, 1150 (9th Cir. 2001)). The court ruled that staff and inmate safety could be reasonably achieved by simply opening each letter to determine that it did not include contraband.

Prior to instituting a postcard-only policy, Sacramento Jail officials appear to have successfully opened and reviewed all incoming mail for contraband. A Postcards-only policy may be more convenient for jail staff, but the court in Columbia County held that such a minor benefit was an insufficient justification for infringing on inmates' First Amendment rights. The outcome will likely be no different in this case.

Postcard-only policies also violate an existing state statute and regulation. Penal Code section 6030 directs the Board of State and Community Corrections (hereinafter "BSCC") to promulgate standards for local detention facilities, including regulations for inmate correspondence. Cal. Pen. Code § 6030, subd. (a) (West 2013). Jail administrators are directed in the Code of Regulations to develop written policies and procedures governing inmate correspondence. 15 Cal. Code Reg. 1063 (West 2013). Specifically, 15 Cal. Code of Regulations section 1063, subdivision (e) states,

"[T]hose inmates who are without funds shall be permitted at least two postage paid *letters* each week to permit correspondence with family members and friends but without limitation on the number of postage paid letters to his or her attorney and to the courts."

(emphasis added)

Postcards are not letters. Statutes and regulations are interpreted according to their plain meaning. See California Teachers' Ass'n v. Governing Bd. Of Rialto Unified School Dist., 14 Cal.4th 627,632 (1997). Letters are written communications sent by postage in an envelope. The postcard-only policy implemented by the SSD in violation of existing state statute and regulations pertaining to jail correspondence.

C. Conclusion

The postcard-only policy now in effect for all inmates housed in the Sacramento County jail system is bad policy and constitutionally infirm. As one Sacramento County inmate stated, "It is hard enough to maintain relationships in [jail], and often impossible for children and grandparents use email and postcards." Limiting communications to postcards only four and a half by six inches will substantially impede an inmate's chances for success when released. For all the reasons explained above, we strongly urge that you abandon this deeply flawed policy. We look forward to discussing this policy in greater detail.

Sincerely,



Kimberly A. Horiuchi, Esq.
Criminal Justice & Drug Policy Advocate
ACLU of California