

**IN THE UNITED STATES DISTRICT COURT FOR THE  
CENTRAL DISTRICT OF ILLINOIS**

HUMAN RIGHTS DEFENSE CENTER,  
a not-for-profit corporation,

Plaintiff,

v.

PEORIA COUNTY, ILLINOIS; CHRIS  
WATKINS, Sheriff, individually and in his  
official capacity; CARMISHA TURNER,  
Corrections Superintendent, individually and in  
her official capacity; BRIAN J. JOHNSON,  
Assistant Corrections Superintendent,  
individually and in his official capacity; and  
JOHN AND JANE DOES 1-5, Staff, individually  
and in their official capacities,

Defendants.

Case No. 1:25-cv-01369

JURY TRIAL DEMANDED

Judge Jonathan E. Hawley

Magistrate Judge Ronald L. Hanna

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**PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION  
AND SUPPORTING MEMORANDUM**

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Plaintiff Human Rights Defense Center (“HRDC” or “Plaintiff”) moves for a preliminary injunction under Federal Rule of Civil Procedure 65 and the associated Local Rules and guidelines, to enjoin Peoria County, Illinois; Sheriff, Chris Watkins; Corrections Superintendent, Carmisha Turner; and Assistant Corrections Superintendent, Brian J. Johnson (collectively, the “Defendants”) from unconstitutionally censoring HRDC’s publications sent to prisoners at the Peoria County Jail (the “Jail). Further, the Court should order Defendants to provide Constitutionally required due process notice when rejecting publications sent to prisoners at the Jail.

## INTRODUCTION

HRDC seeks to provide prisoners with reading materials about their legal and civil rights and options for accessing education while incarcerated. On numerous occasions since April 2025, Defendants refused to deliver books and magazines HRDC sent to prisoners at the Jail, directly violating HRDC's First Amendment right to communicate information to these individuals. In addition, Defendants have failed to provide HRDC with adequate notice and an opportunity to challenge censorship decisions, in violation of the Due Process Clause of the Fourteenth Amendment. Defendants' violations of the Constitution are causing HRDC irreparable harm. As a settled matter of First Amendment law, the continued deprivation of HRDC's free-speech rights is precisely the type of irreparable harm that justifies preliminary injunctive relief.

HRDC's publications pose no threat to the safety and security of the Jail and, in fact, are distributed in jails and prisons all over the United States, including in jails and prisons throughout the State of Illinois. HRDC has no alternative means of communicating with prisoners at the Jail, and because of Defendants' arbitrary policies, individuals incarcerated at the Jail have limited access to reading and educational materials and no access to HRDC's materials.

To remedy these constitutional violations, HRDC requests that this Court enter a preliminary injunction: (1) prohibiting Defendants from continuing to arbitrarily and illegally censor HRDC's publications sent to prisoners at the Jail; and (2) requiring Defendants to satisfy due process by providing HRDC with adequate notice of the reasons for any rejections of its publications sent to persons incarcerated in the Jail and an opportunity to be heard.

## I. STATEMENT OF FACTS

**The Parties.** HRDC is a not-for-profit charitable organization which, for more than 35 years, has focused its mission on education, advocacy and outreach to prisoners and the public about the economic and social costs of prisons to society, the constitutional and human rights afforded to prisoners, and the ways in which prisoners can access education while incarcerated. (Declaration of Paul Wright (“Wright Decl.”) ¶ 2). HRDC accomplishes this mission through advocacy, litigation, and publication and distribution of books, magazines, and other information about prisons and the rights of prisoners. (*Id.*). Defendant Peoria County, Illinois, operates the Jail, and is and was responsible for adopting and implementing policies governing incoming mail and publications for prisoners at the Jail. (Complaint ¶ 8). The other named Defendants are employees and agents of the Jail who have played a role in promulgating, enforcing, or overseeing personnel who apply the Jail’s policies, practices, and procedures relating to mail and the reading material available to prisoners. (*Id.* ¶¶ 9-11).

**HRDC’s Publications.** HRDC publishes and distributes a softcover monthly magazine titled *Prison Legal News: Dedicated to Protecting Human Rights* (“*Prison Legal News*”), which contains news and analysis about prisons, jails, and other detention facilities, prisoners’ rights, management of prison facilities, prison conditions, and other matters pertaining to the rights and interests of incarcerated individuals. (Wright Decl. ¶ 4). HRDC also publishes a second monthly magazine, *Criminal Legal News*. This magazine focuses on review and analysis of individual rights, court rulings, and news about criminal justice related issues. *Criminal Legal News* is published and distributed in the same manner as *Prison Legal News*. (*Id.* ¶ 5). HRDC’s magazines provide prisoners with timely, in-depth coverage of judicial decisions and other recent events concerning our nation’s criminal justice system in a way that would be impossible through other

means of communication. (*Id.* ¶ 6). It is essential that the magazines are delivered in a timely manner, as delays in delivery diminish the magazines' news value. (*Id.*).

HRDC also publishes and/or distributes several different soft-cover books on criminal justice, health, and legal issues that are of interest to prisoners and others. (*Id.* ¶ 7). Specifically, HRDC publishes and distributes the *Prisoners' Guerilla Handbook: A Guide to Correspondence Programs in the United States and Canada* ("Prisoners' Handbook"), which provides information on enrolling at accredited higher educational, vocational and training schools. (*Id.*). HRDC also publishes and distributes *The Habeas Citebook: Ineffective Assistance of Counsel* ("Habeas Citebook"), which describes the procedural and substantive complexities of federal habeas corpus litigation with the goal of identifying and litigating claims involving ineffective assistance of counsel. (*Id.*). HRDC does not publish, but is the sole national distributor of the book *Protecting Your Health and Safety* ("PYHS"), which describes the rights, protections and legal remedies available to persons concerning their health and safety while they are incarcerated. (*Id.*).

HRDC has sent thousands of its magazines and books by mail (including the distribution of more than a million copies of *Prison Legal News*) to customers nationwide since its founding in 1990. (*Id.* ¶ 9). *Prison Legal News* has thousands of subscribers in the United States and abroad, including prisoners, attorneys, journalists, libraries, judges, and members of the general public. (*Id.*). Since 1990, HRDC has sent its publications and books by mail to prisoners and law librarians in more than 3,000 correctional facilities in all fifty states. These facilities include death row housing units and "supermax" prisons like the federal Administrative Maximum Facility at Florence, Colorado, which is known as the most secure prison in the United States. (*Id.* ¶ 10). HRDC's publications have been distributed without incident to prisoners at prisons and jails throughout the State of Illinois including: FCI Pekin; FCI Greenville; MCC Chicago; FCI Marion;

FCI Thomson; Boone County Jail; Champaign County Jail; Cook County Jail; DuPage County Jail; Henry County Jail; Jefferson County Jail; Kane County Jail; Kankakee County Detention Center; Kendall County Jail; Knox County Jail; Lake County Jail; LaSalle County Jail; Lee County Jail; Livingston County Jail; Macon County Jail; Marion County Jail; McHenry County Jail; McLean County Detention Center; Mercer County Jail; Piatt County Jail; Pulaski Detention Center; Randolph County Jail; Richland County Jail; Sangamon County Jail; Tazewell County Jail; Vermillion County Jail; White County Jail; Will County Adult Detention Facility; Winnebago County Justice Center; and Woodford County Jail. (*Id.*).

**Defendants' Unconstitutional Mail Policy.** Defendants have adopted a policy and practice that prohibits prisoners held at the Jail from receiving books and magazines from HRDC. Defendants' mail policy (the "Mail Policy") provides, in pertinent part, as follows:

All incoming Inmate mail will be opened and inspected for contraband, but not read. Items that are **NOT** accepted by the jail include but are not limited to:

- Books, including torn out pages and copies of;
- Magazines, including torn out pages and copies of;
- Newspaper clippings; including copies of;
- Envelopes, stamps, and writing paper;
- Personal checks;
- Voice recorded or musical cards;
- Any metal or plastic;
- Sexually explicit material;
- Polaroid pictures;
- Pictures with gang signs or mugshots; or
- Anything determined by staff to be a security threat.

Any mailing found to contain contraband will be returned to the sender in its entirety.

(Wright Decl. ¶ 14, Ex. A).

Without the ability to send its publications to prisoners in the Jail by mail, HRDC has no alternative means of exercising its right to communicate with these persons. (*Id.* ¶ 33). HRDC’s publications do not actually interfere with a correctional facility’s penological interests, or cause security problems. (*Id.* ¶¶ 11-12).

**Defendants’ Censorship of HRDC’s Mail.** Between March 2025 and August 2025, HRDC sent mail, including books, and magazines, to prisoners held at the Jail. Each item was individually addressed to a specific recipient and separately mailed. (*Id.* ¶ 15). Defendants censored HRDC’s publications by failing to deliver them to the intended prisoner-recipients at the Jail. Plaintiff can identify at least thirty-eight (38) items rejected by Defendants, including fifteen (15) copies of *Prison Legal News*; eight (8) copies of the *Habeas Citebook*; eight (8) copies of the *Prisoners’ Handbook*; four (4) copies *Criminal Legal News*; and three (3) copies of *PYHS*. (*Id.* ¶ 16). Many of the rejected items were returned to HRDC’s offices marked “UNABLE TO FORWARD,” “Not Deliverable As Addressed,” or “Items Not Approved.” (*Id.* ¶ 17).

Additionally, Defendants’ censorship of HRDC’s mail was done without any notice or any opportunity to challenge the censorship decisions. (*Id.* ¶¶ 20-21). HRDC continues, and will continue, to try to communicate with prisoners confined in the Jail. (*Id.* ¶ 22).

## II. LEGAL STANDARD

Under Federal Rule of Civil Procedure 65, a court may issue a preliminary injunction on notice to the adverse party. *See* Fed. R. Civ. P. 65. To obtain a preliminary injunction, a plaintiff must show that: “(1) without this relief, it will suffer ‘irreparable harm’; (2) ‘traditional legal remedies would be inadequate’; and (3) it has some likelihood of prevailing on the merits of its claims.” *Mays v. Dart*, 974 F.3d 810, 818 (7th Cir. 2020) (quoting *Speech First, Inc. v. Killeen*, 968 F.3d 628, 637 (7th Cir. 2020)). Once a plaintiff makes such a showing, the court proceeds to

a balancing analysis where the court must weigh the harm a denial of the preliminary injunction would cause the plaintiff against the harm to the defendant if the court granted the injunction. *Id.* The balancing analysis involves a “sliding scale approach.” *Id.* Under the sliding scale approach, the more likely the plaintiff is to win on the merits, the less the balance of the harms needs to weigh in plaintiff’s favor, and vice versa. *Id.* The Seventh Circuit has said, in cases involving the First Amendment, “the likelihood of success on the merits will often be the determinative factor.” *Higher Society of Indiana v. Tippecanoe Cnty., Indiana*, 858 F.3d 1113, 1116 (7th Cir. 2017) (reasoning that because even a short deprivation of First Amendment rights constitutes irreparable harm, the balance of harms normally favors granting a preliminary injunction because the public interest is not harmed by enjoining the enforcement of a policy that is probably unconstitutional).

### **III. ARGUMENT**

The Court should grant HRDC a preliminary injunction prohibiting Defendants from continuing to violate Plaintiff’s constitutional rights of free speech and due process because: (1) HRDC is likely to succeed on the merits of its claims; (2) HRDC is currently suffering, and will continue to suffer, irreparable harm in the absence of preliminary relief; and (3) traditional legal remedies are inadequate to compensate HRDC for the harm it is suffering. Further, issuing a preliminary injunction would cause little, if any, harm to the Defendants, while preventing further violations of HRDC’s constitutional rights.

#### **A. HRDC is Likely to Succeed on the Merits of Its Claims**

##### **1. *First Amendment Claim***

A publisher’s right to send publications and other correspondence to prisoners is clearly established. “[T]here is no question that publishers who wish to communicate with those who... willingly seek their point of view have a legitimate First Amendment interest in access to

prisoners.” *Thornburgh v. Abbott*, 490 U.S. 401, 408 (1989); *see also Van den Bosch v. Raemisch*, 658 F.3d 778, 785 (7th Cir. 2011); *Massey v. Wheeler*, 221 F.3d 1030, 1036 (7th Cir. 2000) (acknowledging the First Amendment right of publishers to communicate with inmates); *Howard v. Braemer*, No. 20-CV-1366-pp, 2021 WL 1979496, at \*2 (E.D. Wis. May 18, 2021) (“Those outside of prison have an interest in corresponding with incarcerated persons”) (citing *Raemisch*, 658 F.3d at 785). “Prison walls do not form a barrier separating prison inmates from the protections of the Constitution,” *Turner v. Safley*, 482 U.S. 78, 84 (1987), nor do they bar others who are not incarcerated “from exercising their own constitutional rights by reaching out to those on the ‘inside.’” *Thornburgh*, 490 U.S. at 407.

The interests of the senders and their intended recipients are “inextricably meshed,” and censorship of prisoner mail creates “a consequential restriction on the First and Fourteenth Amendment rights of those who are *not* prisoners.” *Procunier v. Martinez*, 416 U.S. 396, 409-10 (1974) (“Communication by letter is not accomplished by the act of writing words on paper. Rather, it is effected only when the letter is read by the addressee. Both parties to the correspondence have an interest in securing that result...”), *overruled in part on other grounds by Thornburgh*, 490 U.S. at 413-14 (emphasis added). “Whatever the status of a prisoner’s claim to uncensored correspondence with an outsider, it is plain that the latter’s interest is grounded in the First Amendment’s guarantee of freedom of speech.” *Id.* at 408.

As such, to withstand First Amendment scrutiny, a prison policy must be “reasonably related to legitimate penological interests” under the four *Turner* factors: (1) whether there is a valid, rational connection between the prison regulation or action and the interest asserted by the government, or whether the interest is so remote as to render the policy arbitrary or irrational; (2) whether there exist alternative means to exercising the constitutional right in question; (3) what

impact the desired accommodation would have on the prison's security staff, inmates, and allocation of resources; and (4) whether there exists any obvious, easy alternatives to the challenged regulation or action, which may suggest that it is not reasonable, but instead an exaggerated response to prison concerns. *See Lovelace v. Lee*, 472 F.3d 174, 200 (4th Cir. 2006) (quoting *Turner*, 482 U.S. at 89-92). While this case involves free speech rights of free persons, not prisoners, for purposes of this motion, HRDC assumes that the Court will employ the *Turner* four-factor test as a means of ensuring that any injunctive relief incorporates due deference for the demands of jail operation. As discussed below, HRDC is highly likely to prevail on each of the *Turner* factors with regard to Defendants' censorship.

**a) Defendants' Publication Policy and Practices Are Not Rationally Related to Any Legitimate Penological Objectives.**

The first factor established by *Turner* to determine the validity of a jail regulation is whether there is a "valid, rational connection between the prison regulation and the legitimate governmental interest put forward to justify it." *Turner*, 482 U.S. at 89 (internal quotation marks omitted). This factor is a threshold inquiry. *Singer v. Raemisch*, 593 F.3d 529, 534 (7th Cir. 2010); *see also Rudebush v. Lenski*, No.14-CV-169-JDP, 2016 WL 5415924, at \*6 (W.D. Wis. Sept. 28, 2016) ("Defendant's failure to make a showing under the first *Turner* factor is enough to doom his motion for summary judgment."). If a prison fails to show that its regulation is rationally related to a legitimate penological objective, the Court does not consider the other factors. *Ashker v. Cal. Dept. of Corr.*, 350 F.3d 917, 922 (9th Cir. 2003); *see also Prison Legal News v. Cook*, 238 F.3d 1145, 1151 (9th Cir. 2001) (concluding that the prison restriction was not rationally related to a legitimate penological objective and declining to consider the other *Turner* factors).

The logical connection between the prison regulation and the penological objective cannot be sustained where it is "so remote as to render the policy arbitrary or irrational." *Turner*, 482 U.S.

at 89-90. Additionally, the governmental objective must be a legitimate and neutral one. *Id.* To make a showing under *Turner* prison authorities must show more than “a formalistic logical connection between a regulation and a penological objective,” *Beard v. Banks*, 548 U.S. 521, 535 (2006). Once a plaintiff presents evidence to refute a “common-sense connection” between a legitimate interest and a prison policy, the defendant “must present enough counter-evidence to show that the connection is not so remote as to render the policy arbitrary or irrational.” *Frost v. Symington*, 197 F.3d 348, 357 (9th Cir. 1999) (internal quotation marks omitted). “Prison authorities cannot rely on general or conclusory assertions to support their policies. Rather, they must first identify the *specific* penological interests involved and then demonstrate both that those specific interests are the actual bases for their policies and that the policies are reasonably related to the furtherance of the identified interests. An evidentiary showing is required as to each point.” *Walker v. Summer*, 917 F.2d 382, 386 (9th Cir. 1990) (emphasis added); *see also Caldwell v. Miller*, 790 F.2d 589, 598 (7th Cir. 1986) (“the governmental interest asserted in support of a restrictive policy must be sufficiently articulated to allow for meaningful review of the regulation in question and its effect on the inmate’s asserted rights”).

*Turner* allows for deference to prison officials while providing an avenue for judicial review to ensure prison officials are not encroaching on individual’s First Amendment rights. *See Beard*, 548 U.S. at 535; *see also Miller-El v. Cockrell*, 537 U.S. 322, 340 (2003); and *Jackson v. Thurmer*, 748 F. Supp. 2d 990, 1001 (W.D. Wis. 2010). As such, “[i]n order to warrant deference, prison officials *must present credible evidence* to support their stated penological goals.” *Berheide v. Suthers*, 286 F.3d 1179, 1189 (10th Cir. 2002); *see also Riker v. Lemmon*, 798 F.3d 546, 553 (7th Cir. 2015) (“prison officials must still articulate their legitimate governmental

interest in the regulation and provide some evidence supporting their concern”) (internal quotation marks omitted).

Here, Defendants cannot satisfy the first prong of *Turner*. Defendants’ policy of censoring all publications advances no legitimate penological objective. To the contrary, Defendants’ censorship of HRDC’s publications hampers the Supreme Court’s recognized penological objective of rehabilitating prisoners. *See McKune v. Lile*, 536 U.S. 24, 36 (2002) (quoting *Pell v. Procunier*, 417 U.S. 817, 823 (1974)) (recognizing that because “most offenders will eventually return to society, a paramount objective of the corrections system is the rehabilitation of those committed to its custody”). Inmate access to reading material and freedom to correspond with non-prisoners has been found to benefit, not hinder, the goal of rehabilitation. *See Martinez*, 416 U.S. at 412 (“[T]he weight of professional opinion seems to be that inmate freedom to correspond with outsiders advances rather than retards the goal of rehabilitation . . . .”); *see also Paris Adult Theatre I v. Slaton*, 413 U.S. 49, 63 (1973) (citing the “well nigh universal belief that good books . . . lift the spirit, improve the mind, enrich the human personality, and develop character”); *Cline v. Fox*, 319 F. Supp. 2d 685, 694 (N.D.W. Va. 2004).

The first *Turner* factor weighs in HRDC’s favor because Defendants’ Mail Policy mail is not rationally related to any legitimate penological objectives. In fact, Defendants’ deprivation of access to materials published by the HRDC, and other publishers and distributors of books and magazines, has and will continue to harm prisoners at the Jail by frustrating the critical penological objective of rehabilitation. Because the first *Turner* factor is a threshold inquiry which Defendants cannot satisfy, the Court need not consider the remaining factors. However, even if the Court believes that Defendants can satisfy this threshold factor, HRDC should still prevail because the remaining *Turner* factors also weigh in favor of the HRDC.

**b) There Are No Alternative Avenues for HRDC to Exercise Its First Amendment Right to Communicate Information to Persons Incarcerated in the Jail.**

The second factor relevant in determining the reasonableness of a jail restriction is whether there are alternative means available to exercise the constitutional right in question. *Turner*, 482 U.S. at 90. Absence of an alternative means may be seen as evidence that the prison restriction in question is unreasonable. *Beard*, 548 U.S. at 532 (holding that no alternative means of communication can be seen as “some evidence” that the prison regulations in question were “unreasonable”). In an analogous case to the one here, involving a jail’s policy of prohibiting prisoners from receiving books or magazines through the mail, a district court found that the second *Turner* factor “clearly favor[ed Plaintiff, Prison Legal News].” *Prison Legal News v. Nw. Reg’l Jail Auth.*, No. 5:15-cv-00061, 2017 WL 4415659, at \*6 (W.D. Va. Sept. 29, 2017). The court there found that the defendant’s policy “was effectively a complete ban on any prisoner being able to obtain [Prison Legal News] publications, whether through a subscription or a gift subscription” and “[Prison Legal News was] being denied total access to the prisoners at the jail and [did] not have an adequate alternative method for reaching prisoners.” *Id.* The same is true here with respect to HRDC.

Here, Defendants do not provide HRDC with any alternative means of effectively communicating the content of its books and magazines to prisoners in the Jail. Defendants ban prisoners from receiving *any* books or magazines, thus precluding HRDC, and all other publishers and distributors of books and magazines, from conveying their message to prisoners in custody at the Jail. *Morrison v. Hall*, 261 F.3d 896, 904 (9th Cir. 2001) (even if there are other means by which a prisoner can obtain general information, those avenues “should not be considered a substitute for reading newspapers and magazines”). HRDC’s monthly issues of *Prison Legal News* and *Criminal Legal News* provide prisoners with timely, in-depth coverage of judicial decisions

and other recent events related to the criminal justice system in a manner that would be impossible to attain through other means of communication. This is also true for: HRDC's *Prisoners' Handbook*, which provides prisoners information on enrolling at accredited higher educational, vocational, and training schools; *PYHS*, which describes rights, protections, and legal remedies available to prisoners; and the *Habeas Citebook*, which describes the procedural and substantive complexities of federal habeas corpus litigation with the goal of identifying and litigating claims involving ineffective assistance of counsel. Under Defendants' current Mail Policy, HRDC has no practical way to reach its intended audience. (Wright Decl. ¶ 33). Thus, the second *Turner* factor weighs in favor of HRDC.

**c) Accommodating HRDC's First Amendment Rights Would Impose No Significant Burden on Jail Officials, Other Prisoners, or Defendants' Allocation of Resources.**

The third *Turner* factor considers "the impact accommodation of the asserted constitutional right will have on guards and other inmates, and on the allocation of prison resources generally." *Turner*, 482 U.S. at 90. When evaluating this factor, the Supreme Court has noted that the policies followed at other institutions are instructive and relevant to a determination of the need for the particular type of restriction. *Martinez*, 416 U.S. at 414 n.14. Therefore, the ability of other institutions to effectively accommodate the constitutional right and the particular publications in question support a court finding that the particular prison restriction is unnecessary.

For more than 35 years, HRDC has sent its publications and materials to thousands of prisoners nationwide and beyond. (Wright Decl. ¶¶ 9-10). HRDC distributes its publications to thousands of federal, state, and local correctional facilities throughout the United States, including "supermax" prisons operated by the Federal Bureau of Prisons, without censorship. (*Id.* ¶ 10). HRDC is unaware of any jail or state or federal prison where HRDC's books have created a security problem or burden on correctional officials or resources. (*Id.* ¶ 11). Some correctional

facilities that previously maintained publication bans have recognized, after rescinding the problematic publication policies, that allowing prisoners to read books and magazines has generated a “win/win” for everyone involved. *Prison Legal News v. Nw. Reg'l Jail Auth.*, No. 5:15-cv-00061, 2019 WL 4786054, at \*3 (W.D. Va. Sept. 30, 2019). The fact that thousands of correctional institutions nationwide accommodate HRDC’s free speech rights and permit prisoners to receive their publications without censorship is strong evidence that Defendants’ policy is unnecessary and that the third *Turner* factor weighs in favor of HRDC.

**d) Defendants’ Mail Policy is an Exaggerated Response to Perceived Security Concerns.**

The fourth and final *Turner* factor inquires whether the restriction is an “exaggerated response” to jail concerns. *Turner*, 482 U.S. at 90. The Court has stated that “the existence of obvious, easy alternatives may be evidence that the regulation is not reasonable...” *Id.* When a claimant can provide an alternative that fully accommodates the constitutional rights in question, at a *de minimis* cost to valid penological interests, a court may consider this evidence that the jail regulation does not satisfy the reasonable relationship standard. *Id.* at 91. Once a court finds that a restriction is an “exaggerated response” to prison concerns, the restriction cannot stand. *See id.* at 91, 97-99.

The fact that thousands of correctional facilities nationwide allow prisoners to receive HRDC’s publications and other mail pieces, without creating security or other penological problems, demonstrates that there are available alternatives to banning HRDC’s publications. *See, e.g., Hrdlicka v. Reniff*, 631 F.3d 1044, 1055 (9th Cir. 2011) (finding that the final *Turner* factor favored the publisher challenging the county jail regulation because it was undisputed that the publisher’s magazine was already being distributed in other California county jails). The distribution of HRDC’s books, magazines, and other communications in other facilities, including

at least 35 facilities in Illinois (Wright Decl. ¶ 10), demonstrates that Defendants’ publication ban is both unnecessary and unreasonable. The Jail’s ban on books and magazines is an “exaggerated response” to perceived security concerns, and, as such, the fourth *Turner* factor also weighs in favor of HRDC.

## 2. Due Process Claim

For decades the Supreme Court has recognized that a publisher’s right to communicate with prisoners is as grounded in the Fourteenth Amendment as it is in the First Amendment. *Martinez*, 416 U.S. at 418. The Seventh Circuit has repeatedly reaffirmed this principle and recognized that there is a liberty interest in correspondence under both the First and Fourteenth Amendments. *See, e.g., Owen v. Lash*, 682 F.2d 648, 652-653 (7th Cir. 1982) (the right to correspond is protected by both the First and Fourteenth Amendments). The Fourteenth Amendment requires that a correctional institution provide notice and an opportunity to challenge each censorship decision that it makes, and this notice must be provided to both the incarcerated person and the sender of the correspondence. *See Martinez*, 416 U.S. at 418; *see also Moyler v. Fannin*, No. 7:20-cv-00028, 2023 WL 2541131, at \*8 (W.D. Va. Mar. 16, 2023).

In *Montcalm Publishing Corporation v. Beck*, 80 F.3d 105, 109 (4th Cir. 1996), having recognized that the plaintiff publisher had a constitutional interest in communicating with its inmate subscribers, the Fourth Circuit held senders of publications are entitled to procedural protections when prisons prevent inmate-recipients from receiving the publications. The *Montcalm* Court stated that providing notice and opportunity to an incarcerated person alone does not suffice because “[a]n inmate who cannot even see the publication can hardly mount an effective challenge to the decision to withhold that publication,” adding that while a prisoner can ask for help from the publisher in challenging the prison authorities’ decision, “the publisher’s First Amendment

right *must not depend on that.*” *Montcalm Pub. Corp.*, 80 F.3d at 109 (emphasis added). “Without notifying the free citizen of the impending rejection, he would not be able to challenge the decision which may infringe his right to free speech.” *Martin v. Kelley*, 803 F.2d 236, 244 (6th Cir. 1986); *Jacklovich v. Simmons*, 392 F.3d 420, 433 (10th Cir. 2004); *see Cook*, 238 F.3d at 1153.

Courts have upheld Plaintiff’s due process rights in circumstances similar to this case. For example, in *Human Rights Defense Center v. Southwest Virginia Jail Authority*, the Court held “HRDC was entitled to notice and an opportunity to be heard regarding the defendants’ interference with its First Amendment right to communicate with prisoners,” stating that the undisputed facts show defendants violated HRDC’s due process rights “by failing to give notice of confiscations, giving inadequate notice, and not providing a reasonable opportunity to appeal.” *Human Rights Defense Center v. Southwest Virginia Jail Authority*, 396 F. Supp. 3d 607, 625 (W.D. Va. 2019). In *Prison Legal News v. Northwestern Regional Jail Authority*, the court held that the defendant violated Plaintiff’s due process rights by failing to consistently provide Plaintiff notice that its mail was being rejected, and by failing to advise Plaintiff of any way to appeal the rejection. *See* 2017 WL 4415659, at \*12.

The constitutional mandate for publishers to have an opportunity to be heard and challenge censorship decisions that affect their First Amendment rights is crucial. Among other things, without such procedural protections, publishers cannot assist subscribers, who might not otherwise be aware of the substance of the rejected correspondence, in filing challenges to such violations within their correctional grievance system. *See Montcalm*, 80 F.3d at 108-109. Publishers and prisoners cannot know what correspondence is being censored and effectively challenge the censorship if correctional facilities are permitted to reject items without notice. *Id.* HRDC simply

asks Defendants to provide due process when Defendants censor publications or other correspondence.

Defendants are constitutionally mandated to afford due process protections to publishers when censoring prisoner mail. They have plainly failed to do so here. To date, for all rejected material at issue, HRDC received no notice when its publications were censored. (Wright Decl. ¶¶ 20). HRDC was not provided any reason for the censorship, nor an avenue or opportunity to challenge the rejection of its mail by the Jail. (*Id.* ¶¶ 20-21). As a result, Defendants have repeatedly violated HRDC's due process rights under the Fourteenth Amendment.

**B. Defendants' Constitutional Violations Are Causing HRDC to Suffer Irreparable Harm.**

As the Supreme Court and Seventh Circuit have stated, “[t]he loss of First Amendment freedoms, for even minimal periods of time, *unquestionably constitutes irreparable injury.*” *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (emphasis added); *Joelner v. Village of Washington Park, Illinois*, 378 F.3d 613, 620 (7th Cir. 2004) (quoting *Elrod*). The loss of First Amendment rights is presumed to cause irreparable harm based on “the intangible nature of the benefits flowing from the exercise of those rights; and the fear that, if those rights are not jealously safeguarded, persons will be deterred, even if imperceptibly, from exercising those rights in the future.” *Ezell v. City of Chicago*, 651 F.3d 684, 699 (7th Cir. 2011) (internal quotation marks omitted).

Accordingly, courts have repeatedly found irreparable harm based on the denial of First Amendment rights in correctional settings. *See, e.g., Jones v. Caruso*, 569 F.3d 258, 277 (6th Cir. 2009) (affirming grant of preliminary injunction against prison mail policy); *Prison Legal News v. Lehman*, 397 F.3d 692, 699-700 (9th Cir. 2005) (affirming grant of permanent injunction of prison ban on non-subscription bulk mail and catalogs requested by incarcerated person); *Human Rights Defense Center v. Sw. Va. Reg'l Jail Auth.*, No. 1:18CV00013, 2018 WL 3239299, at \*6 (W.D.

Va. July 3, 2018) (granting preliminary injunction against jail authority's ban on staples); *Prison Legal News v. Cnty. of Ventura*, No. CV 14-773-GHK (ex), 2014 WL 2519402, at \*8 (C.D. Cal. May 29, 2014) (granting preliminary injunction against jail's postcard-only policy); Mem. Opinion and Order, *Prison Legal News v. Betterton*, No. 2:12-CV-00699-JRG, (E.D. Tex. Sept. 30, 2013), Dkt. No. 59 at 13-15 (granting preliminary injunction against jail's impermissibly vague and arbitrary policy on mail censorship and inadequate appeals process); *Prison Legal News v. Cnty. of Sacramento*, No. 2:11-CV-00907 JAM-DAD, 2012 WL 1075852, at \*1 (E.D. Cal. Mar. 8, 2012) (granting preliminary injunction against jail's ban on staples).

The irreparable harm suffered by HRDC is concrete, severe, and ongoing. Defendants will continue to censor HRDC's mailings to prisoners, without due process, thwarting HRDC's protected speech on critical subjects like government policies, the civil and legal rights of prisoners, jail conditions, and the criminal justice system. HRDC's irreparable harm is exacerbated because *Prison Legal News* and *Criminal Legal News* report on current newsworthy topics on a monthly basis. (Wright Decl. ¶¶ 4-5). The passage of time depletes the publications' news value. (*Id.* ¶ 6). Accordingly, HRDC will continue to suffer irreparable harm without a preliminary injunction and this factor weighs in favor of granting HRDC's preliminary injunction.

### **C. Traditional Remedies are Not Adequate to Prevent the Harm to HRDC.**

Traditional remedies are inadequate to compensate plaintiffs when constitutional rights are violated and damages are difficult to quantify or rectify. *ACLU of Illinois v. Alvarez*, 679 F.3d 583, 589 (7th Cir. 2012). Similar to many First Amendment cases, the damages to HRDC are difficult to quantify, and therefore damages are not an adequate remedy in this case. HRDC seeks damages for: (1) the suppression of its speech; (2) the impediment of its ability to disseminate its message; (3) the frustration of its non-profit organizational mission; (4) the loss of potential subscribers and

customers; and (5) the inability to recruit new subscribers and supporters. (Complaint ¶ 35). Damages of this sort cannot be calculated by easy reference to formula or invoice amount; rather, they require intricate analysis and the quantification of the abstract ideas that constitute the rights and liberties afforded by the constitution. Consequently, it is more effective to prevent the damage in the first place, instead of attempting to put a number on them after the fact. This factor weighs in favor of granting a preliminary injunction.

**D. The Balance of Equities Weighs in HRDC's Favor.**

Because HRDC has shown that it is entitled to a preliminary injunction under the first three *Turner* factors, the Court “must weigh the harm the denial of the preliminary injunction would cause the plaintiff against the harm to the defendant if the court were to grant it.” *Mays*, 974 F.3d at 818. Here, any potential injuries to Defendants are minimal and speculative. There is no great cost or expenditure of time required to change the current policy to allow HRDC to deliver its publications to prisoners and afford HRDC its constitutionally mandated due process. As discussed above, thousands of correctional institutions nationwide, including prisons and jails throughout Illinois, have policies that both allow HRDC publications and afford HRDC its right to due process with regard to rejected mail. This demonstrates that there would be no substantial harm to Defendants if they were enjoined from enforcing the mail policy currently in effect.

In contrast, as explained above, the irreparable harm suffered by HRDC is concrete, severe, and ongoing. *See, e.g., Kincaid v. Rusk*, 670 F.2d 737, 745 (7th Cir. 1982) (“The restrictions involved apparently do not significantly reduce the risk of fire or damage to jail facilities. On the other hand, pretrial detainees, regardless of the length of detention, suffer substantial deprivation of their first amendment rights when access to newspapers, books and magazines is arbitrarily circumscribed.”) As a result, the balance of equities leans in HRDC's favor given the irreparable

harm suffered by HRDC in the absence of a preliminary injunction, and the minimal effort necessary to vindicate its rights under the First and Fourteenth Amendments.

**E. The Bond Requirement Should Be Waived.**

Under Federal Rule of Civil Procedure 65(c), district courts have discretion to determine the amount of the bond accompanying a preliminary injunction, and this includes the authority to set no bond, or only a nominal bond. *Habitat Educ. Ctr. v. U.S. Forest Serv.*, 607 F.3d 453, 458 (7th Cir. 2010); *see also Anderson v. Hansen*, 489 F. Supp. 3d 836, 846 (E.D. Wis. 2020). HRDC is a small non-profit organization of twelve employees that would be unable to post anything more than a nominal bond. (Wright Decl. ¶ 34). A bond requirement would effectively deny access to judicial review for HRDC, which is especially harmful here, because HRDC is alleging violations of its fundamental rights under the Constitution. *See Complete Angler, LLC v. City of Clearwater, Fla.*, 607 F. Supp. 2d 1326, 1335 (M.D. Fla. 2009) (“Waiving the bond requirement is particularly appropriate where a plaintiff alleges the infringement of a fundamental constitutional right.”); *see also Koons v. Platkin*, 673 F. Supp. 3d 515, 670-71 (D.N.J. 2023) (appeal pending). Further, Defendants would not incur damages if an injunction is issued. Accordingly, waiving the bond requirement is appropriate in this case.

**IV. CONCLUSION**

As set forth above, HRDC is likely to succeed on the merits of its constitutional claims. HRDC is suffering and will continue to suffer irreparable harm to its First and Fourteenth Amendment rights, and HRDC lacks any adequate remedy at law to address the ongoing violations of its constitutional rights. Finally, any harm to the Defendants if an injunction were issued would be negligible, if at all existent. For these reasons, HRDC respectfully requests that this Court grant its motion for preliminary injunctive relief, waive the bond requirement, and enjoin the Defendants from censoring HRDC’s mail and publications from the Jail during the pendency of this litigation.

Dated: September 2, 2025

Respectfully Submitted,

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**CERTIFICATE OF COMPLIANCE**

This memorandum complies with the type volume limitation of Rule 7.1(B)(4)(c) of the Local Rules for the United States District Court Central District of Illinois because it contains 6,260 words.

/s/ Caryn C. Lederer  
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**CERTIFICATE OF SERVICE**

The undersigned, an attorney, certifies that on September 2, 2025, she caused the foregoing Plaintiffs' Motion for Preliminary Injunction and Supporting Memorandum and accompanying Declaration of Paul Wright and its exhibits to be sent to the Peoria County State's Attorney via email, with subsequent telephone notification, and via FedEx overnight mail at the email address and address listed below.

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