

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

HUMAN RIGHTS DEFENSE CENTER,

Plaintiff,

v.

PACIFIC COUNTY; PACIFIC COUNTY
SHERIFF’S OFFICE; DANIEL GARCIA,
individually and in his official capacity as
Pacific County Sheriff; and MIKE PARKER,
individually and in his official capacity as
Commander of the Pacific County Jail,

Defendants.

No.

COMPLAINT

DEMAND FOR JURY TRIAL

I. NATURE OF THE CASE

1.1 Defendants have adopted and implemented mail policies, practices, and customs that unconstitutionally restrict correspondence sent to prisoners, that prohibit books and magazines and legal materials, and that do not afford due process notice and an opportunity to challenge the censorship decisions as required by the United States Constitution.

1.2 Plaintiff Human Rights Defense Center (“HRDC” or “Plaintiff”) brings this action for damages, declaratory, and injunctive relief to end Defendants’ unconstitutional policies, practices, and customs, and to remedy Defendants’ censorship of Plaintiff’s publications and correspondence sent to prisoners at the Pacific County Jail in violation of the First Amendment and the Fourteenth Amendment’s Due Process Clause of the United States Constitution.

1
2 **II. PARTIES**

3 2.1 Plaintiff Human Rights Defense Center (HRDC) is a Washington State not-for-
4 profit charitable organization with its principal place of business in Boynton Beach, Florida.
5 HRDC publishes and distributes books and magazines to incarcerated people across the country.

6 2.2 Defendant Pacific County is a municipal corporation formed under the laws of the
7 State of Washington.

8 2.3 Defendant Pacific County Sheriff's Office is a department of Pacific County and
9 operates the Pacific County Jail located in South Bend, Washington. The Pacific County Jail
10 houses convicted prisoners and pretrial detainees.

11 2.4 Defendant Daniel Garcia is the Sheriff of Pacific County. Sheriff Garcia is
12 employed by and is an agent of Pacific County and the Sheriff's Office. He is responsible for the
13 operations of the Pacific County Jail, and the training and supervision of the Jail staff who
14 interpret and implement the Jail's mail policy for prisoners. He is the final policymaker for the
15 Jail policy governing mail for prisoners. All of his acts and omissions alleged herein occurred
16 within the scope of his employment, under color of state law.

17 2.5 Defendant Mike Parker is the Commander of the Pacific County Jail.
18 Commander Parker is employed by and is an agent of Pacific County and the Sheriff's Office.
19 Parker is responsible for overseeing the Corrections department of Defendant Pacific County
20 Sheriff's Office, including overseeing the operation of the Pacific County Jail. He is responsible
21 for supervising the implementation of the Jail's mail policy or practices, and/or making decisions
22 about approving or rejecting mail sent to prisoners at the Pacific County Jail. All of his acts and
23 omissions alleged herein occurred within the scope of his employment, under color of state law.

24 **III. JURISDICTION AND VENUE**

25 3.1 This action arises under the First and Fourteenth Amendments to the United
26 States Constitution and 42 U.S.C. § 1983. This Court has jurisdiction over this action under 28
27 U.S.C. §§ 1331, 1343, 2201, and 2202.

1 3.2 Venue is proper in the Western District of Washington under 28 U.S.C. § 1391
2 (b)(2) because a substantial part of the events complained of occurred in this District, and
3 because the Defendants reside in this District.

4 **IV. FACTS**

5 4.1 For more than thirty-four years, the core of Plaintiff HRDC's mission has been
6 public education, prisoner education, advocacy, and outreach in support of the rights of
7 prisoners, pretrial detainees, and other incarcerated people who seek legal redress for
8 infringements of their constitutionally guaranteed and other basic human rights. Prisoners of all
9 types, family and friends of prisoners, and prisoner advocates, are among the intended
10 beneficiaries of HRDC's activities.

11 4.2 To accomplish its mission, HRDC publishes and distributes books, magazines,
12 and other materials containing news and analysis about prisons, jails and other detention
13 facilities, the rights of prisoners, pretrial detainees, and other incarcerated people, court rulings,
14 management of prison facilities, prison and jail conditions, and other matters pertaining to the
15 rights and interests of prisoners and pretrial detainees, and other incarcerated people. HRDC
16 also engages in advocacy and litigation to further its mission.

17 4.3 Through its publishing project, HRDC engages in core protected speech and
18 expressive conduct on matters of public concern including: the operation of correctional
19 facilities; prison and jail conditions; the health and safety of prisoners; the constitutional and
20 human rights of prisoners; and political speech and social commentary.

21 4.4 HRDC's educational, political, and legal publications and correspondence are
22 entitled to the highest protection afforded by the United States Constitution.

23 4.5 Sending publications through the mail to prisoners and other incarcerated people
24 is essential to accomplishing the mission of HRDC. One of HRDC's primary goals is to
25 communicate with prisoners about developments in the law and protection of one's health and
26 personal safety while in prison or jail. Reading enables prisoners to engage in productive
27 activity rather than sitting idle, thus helping to avoid conflicts and incidents of violence in

1 correctional facilities and encouraging lawful methods of dispute resolution. In addition, reading
2 helps prisoners keep their minds sharp, preparing them to become productive citizens when
3 released back into society. Through prisoner education, HRDC's mission, if realized, has a
4 salutary effect on public safety through prisoner rehabilitation and lower rates of recidivism.

5 4.6 HRDC distributes its publications to incarcerated people by sending its
6 publications to correctional facilities all over the country, including in the State of Washington,
7 at Pacific County Jail and elsewhere. In particular, distributing HRDC's legal educational
8 publications to individuals incarcerated in county jails, such as the Pacific County Jail, is
9 essential to HRDC's mission, because the publications are designed to assist incarcerated
10 individuals who are subject to ongoing criminal proceedings, or who need to know about their
11 civil rights while incarcerated in order to exercise or vindicate those rights, including the right to
12 humane housing conditions, to access appropriate medical and mental health care, to receive
13 disability accommodations, to be free from race and sex discrimination, to be protected from
14 harm by others, and to receive mail and communicate with others, among other rights.

15 4.7 HRDC publishes and distributes an award-winning monthly magazine titled
16 *Prison Legal News: Dedicated to Protecting Human Rights* ("*Prison Legal News*"), which
17 contains news and analysis about correctional facilities, the rights of prisoners, court opinions,
18 prison and jail conditions, excessive force, and religious freedom. In 2013, *Prison Legal News*
19 received the First Amendment Award from the Society of Professional Journalists. *Prison Legal*
20 *News* is published on newsprint bound by two small staples, and is 72 pages long.

21 4.8 HRDC publishes and distributes a second monthly magazine titled *Criminal Legal*
22 *News*, which contains news and analysis about individual rights, court rulings, and other legal
23 issues related to the criminal justice system. *Criminal Legal News* is also published on newsprint
24 bound by two small staples, and is 56 pages long.

25 4.9 HRDC publishes or distributes various soft-cover books on prisoners' rights and
26 issues related to criminal justice, corrections systems, health and safety, and legal issues that are
27 of interest to prisoners and others, including reference books that provide prisoners with

1 information they can use to help themselves and improve their lives.

2 4.10 HRDC publishes and distributes the book titled *PRISONERS' GUERRILLA HANDBOOK:*
3 *A GUIDE TO CORRESPONDENCE PROGRAMS IN THE UNITED STATES AND CANADA* (“*Prisoners’*
4 *Handbook*”), which provides information about enrolling at accredited higher educational,
5 vocational and training schools.

6 4.11 HRDC is the sole national distributor of the book titled *PROTECTING YOUR HEALTH*
7 *AND SAFETY* (“*PYHS*”), which describes the rights, protections and legal remedies available to
8 persons concerning their health and safety while they are incarcerated.

9 4.12 In addition to its publications, HRDC communicates with incarcerated persons by
10 mailing them: (i) informational brochure packets (“Info Packs”), which contain a brochure and
11 subscription order form, a book list, and a published books brochure (each of which is a single
12 page); (ii) copies of judicial opinions of import to incarcerated persons, which are marked “Court
13 Ruling;” and (iii) letters that provide pertinent information about HRDC’s publications and
14 related topics, including subscription renewal letters sent to subscribers to its magazines when
15 the subscriptions are nearly over, in the hopes of renewing the subscription.

16 4.13 HRDC also maintains a website containing information about legal resources.
17 The website contains information about breaking news and a database of articles, publications,
18 legal briefs, and other information about state and federal issues affecting prisoners. Individuals
19 can visit the website and view the content or become a member of and search for and print
20 articles of interest to them, for themselves or to send to others, including prisoners who do not
21 have access or have limited access to computers or the internet, or who have limited or no
22 research skills.

23 4.14 In March 2024, HRDC mailed the June 2023 issue of *Criminal Legal News* to
24 each of the following prisoners at the Pacific County Jail:

25 Prisoner Name

26 Lisa Allison

27 Gregory Forshee

1 Samantha Howard

2 Henry Michelbrink

3 Matthew Pearson

4 The individuals identified above were incarcerated at the Pacific County Jail when the Jail
5 received the June 2023 issues of *Criminal Legal News* mailed by HRDC in March 2024.

6 4.15 On April 10, 2024, HRDC mailed (i) an Info Pack, (ii) the November 2022 issue
7 of *Prison Legal News*, and (iii) the April 2023 issue of *Criminal Legal News* to each of the
8 following prisoners at the Pacific County Jail:

9 Prisoner Name

10 Lisa Allison

11 Patricia Clifford

12 Adam Creach

13 Gregory Forshee

14 David Hess

15 Jose Meza

16 Matthew Pearson

17 Scott Reeder

18 Patrick Saunders

19 Duane Stroop

20 The individuals identified above were incarcerated at the Pacific County Jail when the Jail
21 received the Info Packs and magazines mailed by HRDC on April 10, 2024.

22 4.16 On April 12, 2024, HRDC mailed a copy of *PYHS* to each of the prisoners listed
23 in the preceding paragraph (Lisa Allison, Patricia Clifford, Adam Creach, Gregory Forshee,
24 David Hess, Jose Meza, Matthew Pearson, Scott Reeder, Patrick Saunders, and Duane Stroop).
25 These individuals were incarcerated at the Pacific County Jail when the Jail received the books
26 mailed by HRDC on April 12, 2024.

27 4.17 On May 14, 2024, HRDC mailed a letter to each of the following prisoners at the

1 Pacific County Jail:

2 Prisoner Name

3 Patricia Clifford

4 Gregory Forshee

5 David Hess

6 Matthew Pearson

7 Scott Reeder

8 Patrick Saunders

9 Duane Stroop

10 The letters notified each of these prisoners that HRDC had mailed them an Info Pack and
11 publications, which they should have received by May 14. HRDC's letter asked each prisoner to
12 notify HRDC whether the prisoner had received the items. These individuals were incarcerated
13 at the Pacific County Jail when the Jail received the letters mailed by HRDC on May 14, 2024.

14 4.18 On May 15, 2024, HRDC initiated six-month subscriptions to *Prison Legal News*
15 and *Criminal Legal News* for each of the prisoners listed the preceding paragraph (Patricia
16 Clifford, Gregory Forshee, David Hess, Matthew Pearson, Scott Reeder, and Duane Stroop).
17 These subscriptions commenced with the May 2024 issue of each magazine. These individuals
18 were incarcerated at the Pacific County Jail when the Jail received the magazines mailed by
19 HRDC on May 15, 2024.

20 4.19 On May 22, 2024, HRDC mailed (i) an Info Pack, (ii) a copy of the *Prisoners'*
21 *Handbook*, (iii) the November 2022 issue of *Prison Legal News*, and (iv) the April 2023 issue of
22 *Criminal Legal News* to each of the following prisoners at the Pacific County Jail:

23 Prisoner Name

24 Chris Brumitt

25 Marcy Scattergood

26 Charles Watts

27 The individuals identified above were incarcerated at the Pacific County Jail at the time that the

1 Jail received the Info Packs, books, and magazines mailed by HRDC on May 22, 2024.

2 4.20 On June 10, 2024, HRDC initiated six-month subscriptions to *Prison Legal News*
3 and *Criminal Legal News* for each of the prisoners listed in the preceding paragraph (Chris
4 Brumitt, Marcy Scattergood, and Charles Watts). These subscriptions commenced with the June
5 2024 issue of each magazine. These individuals were incarcerated at the Pacific County Jail
6 when the Jail received the magazines mailed by HRDC on June 10, 2024.

7 4.21 Between April and August 2024, Defendants rejected at least thirty-nine (39) of
8 the items that HRDC mailed to prisoners at the Pacific County Jail, including:

- 9 (a) nine (9) Info Packs;
- 10 (b) nine (9) issues of *Prison Legal News*;
- 11 (c) thirteen (13) issues of *Criminal Legal News*;
- 12 (d) seven (7) letters; and
- 13 (e) one (1) copy of the *Prisoners' Handbook*.

14 4.22 The items identified in the preceding paragraph were returned to HRDC marked
15 with an ink stamp stating, "RETURN TO SENDER," or substantially similar markings reflecting
16 that Defendants rejected them, but provided no notice of the reason for the rejection and no
17 opportunity to challenge the decisions to reject HRDC's magazines, books, letters, and Info
18 Packs.

19 4.23 Defendants failed to provide HRDC with written notice of the reasons for their
20 censorship decisions.

21 4.24 Defendants also failed to provide HRDC with an opportunity to be heard to
22 challenge any of their censorship decisions.

23 4.25 Upon information and belief, Defendants also failed to deliver copies of regular
24 subscriptions magazines mailed directly from HRDC to various prisoners at Pacific County Jail,
25 including monthly copies of its magazines, *Prison Legal News* and *Criminal Legal News*,
26 between May and November 2024.

27 4.26 On September 18, 2024, HRDC contacted Defendant Parker via an email from its

1 Editor and Executive Director Paul Wright. HRDC informed Defendant Parker: “I am a
2 publisher of books and magazines aimed at prisoners and several books and magazines we have
3 sent to prisoners in the Pacific county jail have be[e]n returned to us with no explanation given.”
4 HRDC asked: “Does your facility allow prisoners to receive publications directly from
5 publishers? Please advise.”¹

6 4.27 Defendant Parker responded, “Books may be sent to the Sheriff’s Office for
7 review prior to making available to the inmate library. Items sent directly to inmates may be
8 returned if they haven’t been cleared first.”

9 4.28 HRDC explained to Defendant Parker via email that “[t]he books are for
10 individual prisoners not for the library.” HRDC asked Defendant Parker whether the Pacific
11 County Jail allows this, and whether the same policy applies to magazines.

12 4.29 Defendant Parker responded, “Magazines fall under the same criteria as any
13 literature. It must first be cleared prior to being admitted to the Jail library. Typically, we do not
14 have magazines up there only because swapping them out frequently isn’t convenient for my
15 staff.”

16 4.30 Defendant Parker stated in the same email, “we will allow books to be added to
17 our library if they are addressed to the Jail and not to specific inmates.”

18 ¹ The Pacific County Sheriff’s Office public website contains no information about books
19 or magazines, or any information that might explain why Defendants rejected Plaintiff’s mail.
20 The “Inmate Mail” section of the webpage found at [https://www.pacificcountysheriff.com/](https://www.pacificcountysheriff.com/corrections)
21 corrections (last visited November 15, 2024) contains the following information only:

22 The following is not permitted for inmate mail:

- 23 • Unknown substances
- 24 • Glitter, perfume, glue, or any adhesive material
- 25 • Sexually explicit content
- 26 • Stamps, envelopes, or writing materials
- 27 • Polaroids
- Oversized packages must be pre-approved

1 4.31 Defendant Parker did not identify any means of appealing Defendants' decisions
2 to reject HRDC's publications or other mail sent to prisoners at the Pacific County Jail.

3 4.32 Defendant Parker did not identify any criteria by which the Jail determines how
4 publications are "cleared prior to being admitted to the Jail library."

5 4.33 Defendants have an unwritten policy, and practice, custom, or usage of rejecting
6 books, magazines, and other publications sent to prisoners at the Pacific County Jail.

7 4.34 Defendants have an unwritten policy, and practice, custom, or usage of rejecting
8 information about publications and other correspondence sent to prisoners at the Pacific County
9 Jail.

10 4.35 Defendants have an unwritten policy, and practice, custom, or usage of rejecting
11 mail sent to prisoners at the Pacific County Jail without providing notice of the reason for
12 rejection or an opportunity to be heard to challenge the decision.

13 4.36 In fulfillment of its mission, HRDC wants to and intends to continue sending its
14 books, magazines, and correspondence to subscribers, customers, and other individuals
15 incarcerated at the Pacific County Jail in the future.

16 4.37 Absent relief from this Court, Pacific County Jail's policies and practices and
17 customs, including as conveyed by Defendant Parker to HRDC and by Defendants' blanket
18 rejection of HRDC's publications and other mail, chills and interferes with HRDC's right to
19 communicate with prisoners at the Pacific County Jail, the rights of others to communicate with
20 people incarcerated at the Jail, and the rights of prisoners at the Jail to receive those
21 communications and publications, and will continue to do so.

22 4.38 Defendants' unwritten policies, and their practices, customs, or usages, violate the
23 First Amendment.

24 4.39 Defendants' unwritten policies, and their practices, customs, or usages violates
25 the Due Process Clause of the Fourteenth Amendment.

26 4.40 Defendants' unwritten policies, and their practices, customs, or usages
27 unconstitutionally burden and interfere with, the First Amendment rights of Plaintiff, other

1 publishers and correspondents who send or wish to send books, magazines, other publications,
2 legal materials, or other mail to prisoners confined at the Pacific County Jail, and prisoners at the
3 Jail.

4 4.41 Defendants' unwritten policies, and their practices, customs, or usages
5 unconstitutionally burden and interfere with, the Fourteenth Amendment due process rights of
6 Plaintiff, other publishers and correspondents, and prisoners at the Pacific County Jail, whose
7 mail has been or will be rejected by Defendants without notice of the reasons or an opportunity
8 to be heard to challenge Defendants' censorship decisions.

9 4.42 Defendants' unwritten policies, and their practices, customs, or usages, described
10 above, have a chilling effect on future speech.

11 4.43 Defendants' unwritten policies, and their practices, customs, or usages described
12 above, constitute a prior restraint on speech in violation of the First Amendment.

13 4.44 Defendants' unwritten policies, and their practices, customs, or usages, described
14 above frustrates HRDC's organizational mission and have caused it to divert resources.

15 4.45 Defendants' unwritten policies, and their practices, customs, or usages, have
16 violated, continue to violate, and are reasonably expected to violate in the future Plaintiff's
17 constitutional rights to distribute its publications, communicate its political message to prisoners,
18 to recruit new supporters, readers and subscribers, and have caused Plaintiff additional financial
19 harm in the form of lost subscriptions, and lost publication and book purchases.

20 **V. CAUSES OF ACTION**

21 **Violation of First Amendment to U.S. Constitution**

22 5.1 Plaintiff alleges and incorporates by reference the preceding paragraphs.

23 5.2 Through the acts and failures to act described above, Defendants violated
24 Plaintiff's rights, and the rights of prisoners confined at the Pacific County Jail, under the First
25 Amendment to the United States Constitution through 42 U.S.C. § 1983.

26 5.3 The acts described above have caused Plaintiff damages and will continue to
27 cause damage.

1 5.4 Plaintiff seeks nominal, compensatory, and punitive damages against Defendants
2 in their individual capacities.

3 5.5 Plaintiff seeks declaratory and injunctive relief against all Defendants in their
4 official capacities.

5 **Violation of Fourteenth Amendment to U.S. Constitution**

6 5.6 Plaintiff realleges and incorporates by reference the preceding paragraphs.

7 5.7 Through the acts and failures to act described above, Defendants violated
8 Plaintiff's rights, and the rights of prisoners confined at the Pacific County Jail, under the
9 Fourteenth Amendment to the United States Constitution through 42 U.S.C. § 1983.

10 5.8 The acts described above have caused Plaintiff damages and will continue to
11 cause damage.

12 5.9 Plaintiff seeks nominal, compensatory, and punitive damages against Defendants
13 in their individual capacities.

14 5.10 Plaintiff seeks declaratory and injunctive relief against all Defendants in their
15 official capacities.

16 **Monell Claim Against the Municipal Defendants**

17 5.11 Plaintiff realleges and incorporates by reference the preceding paragraphs.

18 5.12 The officials or employees named above acted under color of state law and their
19 acts deprived Plaintiff of its constitutional right to free speech and due process, and in doing so
20 acted pursuant to an official policy or widespread or longstanding practice or custom of the
21 municipal Defendants, Pacific County and/or the Pacific County Sheriff's Office.

22 5.13 The municipal defendants are liable to Plaintiff by virtue of their unconstitutional
23 implementation of their policies, practices, customs, or usages, which were the motivating factor
24 and proximate cause of the harm to Plaintiff's constitutional rights.

25 5.14 The acts described above have caused damages to Plaintiff and will continue to
26 cause damage.

27 5.15 Plaintiff seeks nominal and compensatory damages against the municipal

1 Defendants.

2 5.16 Plaintiff seeks declaratory and injunctive relief against the municipal Defendants.

3 **VI. INJUNCTION ALLEGATIONS**

4 6.1 Defendants' unconstitutional policy, practices, and customs are ongoing and
5 continue to violate Plaintiff's constitutional rights and the rights of other correspondents and
6 prisoners, and as such there is no adequate remedy at law.

7 6.2 Plaintiff seeks injunctive relief prohibiting Defendants from: refusing to deliver or
8 allow delivery of books and magazines addressed to and intended to be received by specific
9 prisoners incarcerated at Pacific County Jail, including but not limited to its books, magazines,
10 and correspondence, or any other documents from Plaintiff that contain third party legal material;
11 censoring or rejecting publications or other documents sent to prisoners at the Pacific County Jail
12 on the same grounds that Defendants rejected Plaintiff's mail; and prohibiting Defendants from
13 censoring mail without due process of law.

14 **VII. REQUEST FOR RELIEF**

15 WHEREFORE, the Plaintiff requests relief:

16 7.1 A preliminary and permanent injunction preventing Defendants from continuing
17 to violate the Constitution, and providing other equitable relief;

18 7.2 A declaration that Defendants' implementation of their policies, practices,
19 customs or usages violate the Constitution;

20 7.3 An award of nominal, compensatory, and punitive damages, and all damages
21 available under law, for each violation of its First Amendment rights to free speech and
22 expression in an amount to be proved at trial;

23 7.4 An award of nominal, compensatory, and punitive damages, and all damages
24 available under law, for each violation of its Fourteenth Amendment rights to due process in an
25 amount to be proved at trial;

26 7.5 A trial by jury;

27 7.6 Costs and reasonable attorney's fees, under 42 U.S.C. § 1988, and under other

1 applicable law;

2 7.7 Pre-judgment and post-judgment interest;

3 7.8 The right to conform the pleadings to the proof and evidence presented at trial;

4 and

5 7.9 Such other relief as the Court deems just and equitable.

6 DATED this 30th day of December, 2024.

7
8 MacDONALD HOAGUE & BAYLESS
9 705 Second Avenue, Suite 1500
10 Seattle, WA 98104
11 206-622-1604

12 By: /s/Jesse Wing
13 Jesse Wing, WSBA #27751
14 jessew@mhb.com

15 /s/Katherine C. Chamberlain
16 Katherine C. Chamberlain, WSBA #40014
17 katherinec@mhb.com

18 /s/Nathaniel Flack
19 Nathaniel Flack, WSBA #58582
20 nathanielf@mhb.com

21 HUMAN RIGHTS DEFENSE CENTER

22 By: /s/ Jonathan P. Picard
23 Jonathan P. Picard, Fla. Bar # 105477*
24 jpicard@humanrightsdefensecenter.org
25 P.O. Box 1151
26 Lake Worth, FL 33460
27 561-360-2523

**Pro hac vice* application to be filed