

The Local Government LIABILITY BEAT



PRESENTED BY LOCAL GOVERNMENT RISK MANAGEMENT SERVICES INC - A SERVICE ORGANIZATION OF
THE ASSOCIATION COUNTY COMMISSIONERS OF GEORGIA AND THE GEORGIA MUNICIPAL ASSOCIATION RISK MANAGEMENT PROGRAMS

LIABILITY ALERT, MAIL OR CORRESPONDENCE POLICIES IN JAILS, CHALLENGES BROUGHT BY PRISON LEGAL NEWS

By Jack Ryan, Legal and Liability Risk Management Institute

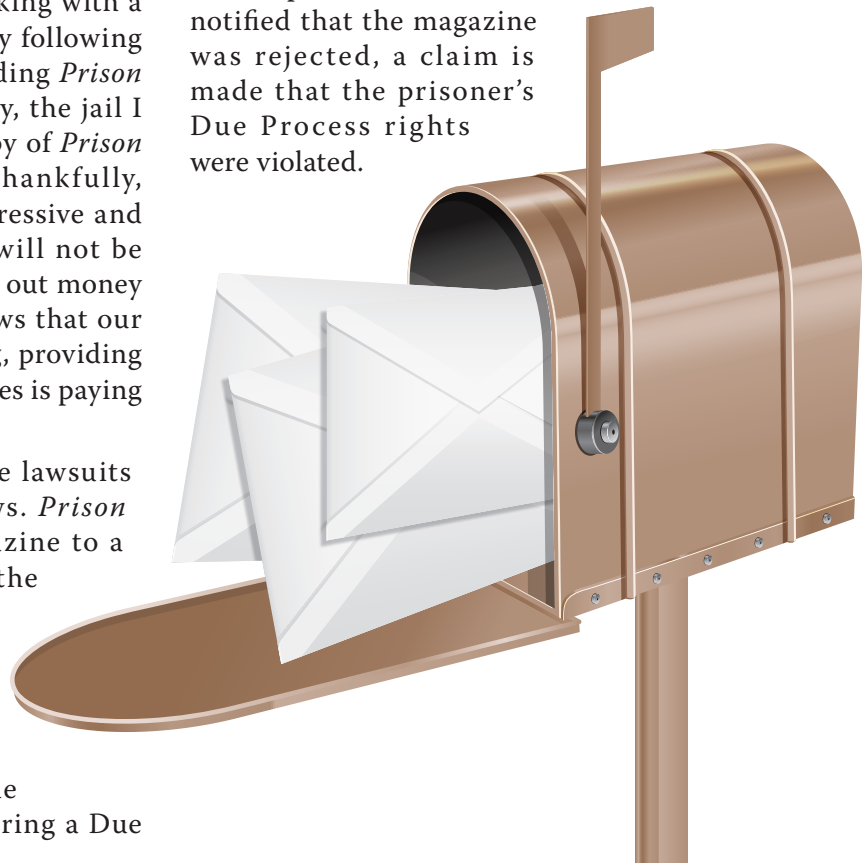
Editor's Note: All members of the Georgia ACCG IRMA, and GMA GIRMA Insurance pools have access to the model policies from LLRMI.

As many of you will remember, we have been raising a concern over the last three to four years about lawsuits brought by *Prison Legal News* challenging the mail or correspondence policies in jails. Over the last couple of weeks I have been working with a jail in Illinois with respect to their policy following some training where the issues surrounding *Prison Legal News* was discussed. Just yesterday, the jail I was working with received their first copy of *Prison Legal News* addressed to a prisoner. Thankfully, because the jail administrator was progressive and paying attention, that sheriff's office will not be joining the ranks of those who have paid out money to *Prison Legal News*. This example shows that our multifaceted service approach of training, providing person-to-person advice, and model policies is paying off. To our staff, keep up the good work.

The general fact pattern generating the lawsuits by *Prison Legal News* occurs as follows. *Prison Legal News* sends copies of their magazine to a prisoner (s). The jail does not deliver the magazine. *Prison Legal News* then files a lawsuit against the jail alleging that they have a First Amendment right to get their speech (the magazine), to prisoners. If *Prison Legal News* did not receive notice from the jail that the magazine was not delivered, they also bring a Due

Process claim alleging that the failure to notify them that their magazine was not delivered violated their right to Due Process.

Prison Legal News then signs up the prisoner who did not receive the magazine and the prisoner becomes a second plaintiff who alleges that his or her First Amendment rights were violated because they had a right to receive the message and if the prisoner was not notified that the magazine was rejected, a claim is made that the prisoner's Due Process rights were violated.



Prison Legal News is not focused on money damages in these lawsuits but instead focuses on getting a declaratory judgment that the existing jail policy on mail is unconstitutional and then seeks injunctive relief requiring the jail to change the policy.

These lawsuits are not without costs. In a number of reported decisions, *Prison Legal News* has recovered significant attorneys' fees as the result of these actions.

Some Examples

Sullivan County, Tennessee: \$50,000

Spokane County, Washington: \$230,00

Walton County, Georgia: The court on Sept. 29 awarded *Prison Legal News* \$92,353.50 in attorneys' fees and \$11,871.76 [in costs], plus interest. The Sheriff's Office has paid those fees.

Columbia County, Oregon: A federal judge has ordered Columbia County to pay more than

\$800,000 in attorneys' fees and costs to *Prison Legal News*, after the publication prevailed in its lawsuit challenging the constitutionality of the county jail's inmate mail policies.

These are just examples. The best way to avoid these lawsuits is to ensure that the jail's mail/correspondence policy is consistent with the legal standards. We want to ensure that this occurs before *Prison Legal News*, some other publisher, or a person sending a letter brings a cause of action against the jail.

Resources

All of our jail clients have access to our model policy that was updated three years ago in light of this trend. Additionally, in 2016 we produced a new 10-minute video for roll-call training on this topic.

Clients, please spread the word to your jails as we are seeing more and more of these cases.

5 STEPS FOR SUCCESSFULLY MANAGING DIVERSITY SPECIAL TOPICS IN SAFETY MANAGEMENT CHRIS KILBOURNE, WEDNESDAY, JULY 14, 2010

Your workforce, your customers, and your markets are increasingly diverse. To promote individual and organizational success, you must welcome diversity and manage it well.

These five steps will help you to manage diversity effectively.

Five Key Steps

Emphasize communication: Ensure that all employees understand your policies, procedures, safety rules, and other important information. Work to overcome language and cultural barriers. Have key materials, such as safety information, translated when possible. Use pictures and symbols on warning signs so that everybody can understand.

View employees as individuals: Avoid both positive and negative stereotypes. Don't make assumptions about employees from different groups. Judge successes and failures individually. Respond promptly and firmly when employees express prejudices or stereotypes. Remind them of your policies that prohibit discrimination. Encourage employees to view co-workers as individuals and judge them on their work, not on personal factors.

Encourage employees to work in diverse groups: Assure that work teams reflect the diversity of your workplace. Diverse work teams let employees get to know and value one another as individuals. Diverse teams also expand the experiences and views of all the workers on the team and help them recognize the strength of their combined talents and perspectives.

Base decisions on objective criteria: Expect all employees of all backgrounds to meet required standards and perform to the best of their ability. Don't set different criteria for different groups. Don't make excuses or allow employees to make excuses for shortcomings. Base all employment actions, including discipline, on specific, performance-related criteria. Always focus on job-related issues, not personal issues, when dealing with employees.

Be open minded: Recognize, and encourage employees to recognize, that one's own experience, background, and culture are not the only ones with value to the organization. Set an example of encouraging diversity by developing relationships with colleagues whose backgrounds differ from yours. Look for ways to incorporate diverse perspectives and talents into efforts to achieve organizational goals.



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This Month:

PRISON CORRESPONDENCE POLICIES
MANAGING DIVERSITY

