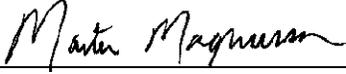


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CHAPTER 21: PRISONER COMMUNICATION		
	STATE of MAINE DEPARTMENT OF CORRECTIONS	PROFESSIONAL STANDARDS See Section VII
	Approved by:  Signature of Commissioner	
EFFECTIVE DATE: August 4, 2003	LATEST REVISION: December 1, 2009	CHECK ONLY IF APA []

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in Title 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

All Departmental Adult Facilities

III. POLICY

It is important that there be constructive correspondence between prisoners and their families and others as a means to maintain ties with the community. Each facility shall provide prisoners with the means to engage in such correspondence.

Each facility shall maintain practices to inspect, read, and restrict prisoner mail as necessary to prevent the introduction of contraband, ensure the safety of prisoners, staff, and others, ensure security, maintain orderly management of the facility, enforce facility rules, and prevent criminal activity.

This policy and procedures shall be reviewed annually and updated as necessary.

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VI. PROCEDURES:

Procedure A: Prisoner Mail, General

1. Except as set out otherwise below, a prisoner shall be allowed to send mail to and receive mail from anyone the prisoner wishes, except that if a prisoner wishes to correspond with another person incarcerated in a juvenile or adult detention or correctional facility, the prisoner must have the approval of the Chief Administrative Officers of both facilities.

The Chief Administrative Officer of a Departmental facility shall approve correspondence privileges between a prisoner and an immediate family member (the prisoner's spouse or domestic partner or the prisoner's parent, child, sibling, grandparent or grandchild, whether the relationship is natural, adoptive, foster or through marriage) who is incarcerated, unless there is a reasonable suspicion that mail between them would contain contraband or information related to criminal activity, violation of the facility's rules, or a risk to the safety of persons, security, or orderly management of the facility or unless there is reasonable suspicion that either person has violated the mail procedures. The prisoner shall be notified of the decision in writing (Attachment A). The Chief Administrative Officer may terminate the correspondence privileges any time reasonable suspicion exists.

The Chief Administrative Officer of a Departmental facility may approve correspondence privileges between other specific prisoners and may limit the subject matter of the correspondence and/or the time period of the privileges. The decision whether to allow or deny correspondence privileges is at the sole discretion of the Chief Administrative Officer. The prisoner shall be notified of the decision in writing (Attachment A). The correspondence privileges may be terminated by the Chief Administrative Officer at any time.

2. If a written request is received from an adult or guardian of an adult that a prisoner not be allowed to send mail to that adult, the Chief Administrative Officer, or designee, shall notify the prisoner, in writing, not to send mail to that person.
3. If a written request is received from a parent/guardian of a minor that a prisoner not be allowed to send mail to that minor, the Chief Administrative Officer, or designee, shall notify the prisoner, in writing, not to send mail to that person.

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4. A prisoner who is adjudicated of or otherwise known to have committed a sex offense or child abuse against a minor shall not be allowed to send mail to or receive mail from the victim without the prior approval of the Chief Administrative Officer, or designee.
5. When contact between a prisoner and another person is prohibited by court order (e.g., custody order, protection order), the prisoner shall not be allowed to send mail to or receive mail from that person.
6. When contact between a prisoner and another person is prohibited by a condition of probation of either person, the prisoner shall not be allowed to send mail to or receive mail from that person. This includes any condition of probation that is currently in effect, is to become effective at a later date, or is no longer in effect as the result of a current probation revocation.
7. A prisoner may be prohibited from sending general mail to or receiving general mail from any other person by the Chief Administrative Officer, or designee, when there is reasonable suspicion that mail between them would contain contraband or information related to criminal activity, violation of the facility's rules, or a risk to the safety of persons, security, or orderly management of the facility. A prisoner may be restricted from sending general mail to or receiving general mail from any other person by the Chief Administrative Officer, or designee, when there is a reasonable suspicion that the prisoner or other person has violated the mail procedures. Existence of a criminal record shall not, in and of itself, constitute a barrier to correspondence.
8. If mail to or from a prisoner is prohibited or otherwise restricted, the Chief Administrative Officer, or designee, shall ensure a memo is sent to all appropriate staff, with a copy to the prisoner's administrative record and the housing unit case management record.
9. Only the Chief Administrative Officer, or designee, may read correspondence sent to, sent by, or in the possession of a prisoner.
10. The Chief Administrative Officer, or designee, may read all correspondence between a prisoner and a prohibited correspondent and between a prisoner and another person incarcerated in a juvenile or adult detention or correctional facility. If correspondence is allowed between the prisoner and the other person, it shall be forwarded to the addressee after being read, unless there is reasonable suspicion that the correspondence contains information related to criminal activity, violation of the facility's rules, or a risk to the safety of persons, security, or orderly management of the facility, in which case it shall be handled as set out in Procedure A.13. If correspondence is not allowed between the prisoner and the other person, after being read, it shall be handled as set out in Procedure A.13.

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In addition, the Chief Administrative Officer, or designee, may read general correspondence, incoming and outgoing, when there is reasonable suspicion that the correspondence contains information related to criminal activity, violation of the facility's rules, or a risk to the safety of persons, security, or orderly management of the facility. If the reasonable suspicion continues after the correspondence is read, it shall be handled as set out in Procedure A.13. Otherwise, it shall be forwarded to the addressee.

The Chief Administrative Officer, or designee, may not read privileged correspondence except as set out in Procedure D.

11. Correspondence written in code or in a language that cannot be translated by facility staff or an interpreter shall be considered contraband and immediately be turned over to the facility Correctional Investigator, or other designated staff. The fact that correspondence is written in a foreign language shall not, in and of itself, make it contraband or constitute reasonable suspicion allowing it to be read.
12. If contraband is found in incoming mail, and there is a reasonable suspicion that it constitutes evidence of criminal activity, violation of the facility's rules, or a risk to the safety of persons, security, or orderly management of the facility or violates a court order or condition of probation currently in effect, the mail, including the envelope, the correspondence, the contraband item, and any other contents, shall immediately be turned over to the facility Correctional Investigator, or other designated staff. If the contraband consists of records, items, or information relating to victims of or witnesses to a criminal charge or conviction involving the prisoner to whom the mail is addressed (e.g., gruesome crime scene photos, victim or witness addresses, videotapes, etc.), the Chief Administrative Officer, or designee, shall determine, after consultation with the Department's legal representative, if it is appropriate for the prisoner to be allowed access to the contraband and, if so, the conditions under which the access is allowed.
 - a. If there is no reasonable suspicion and contraband is found in incoming mail that has no substantial monetary value (e.g., greeting cards with recorded music, messages, or sound effects, writing materials, stickers, ribbons, food items, plastic items, metal items, paper clips, etc.), mail, or other designated staff, shall immediately dispose of the item(s).
 - b. If there is no reasonable suspicion and a personal photo found in incoming mail is contraband merely because it depicts nudity, the photo shall be returned to the sender, if the return address can be determined from the mail itself. If the return address cannot be determined from the mail itself, the photo shall be immediately disposed of. The prisoner shall be promptly notified in writing of the action taken with respect to the personal photo (Attachment B).

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- c. If there is no reasonable suspicion and cash or stamps are found in incoming mail, the cash or stamps shall be returned to the sender, if the return address can be determined from the mail itself. If the return address cannot be determined from the mail itself, cash shall be deposited into the facility's Prisoners' Benefit Account and stamps shall be immediately disposed of. The prisoner shall be promptly notified in writing of the action taken with respect to the cash or stamps (Attachment B).
 - d. If there is no reasonable suspicion, and unless these procedures provide otherwise, all other contraband found in incoming mail, including official identification documents (e.g., birth certificates, driver's licenses, military service records, other forms of identification, etc.) and non-allowable property or allowable property obtained through non-allowable means shall be handled in accordance with Departmental policies and procedures.
13. Except as set out elsewhere in these procedures, mail that is not to be forwarded to the addressee under the provisions of this policy and procedures shall be handled as follows.
- a. If there is reasonable suspicion that the mail is related to criminal activity, violation of the facility's rules, or a risk to the safety of persons, security, or orderly management of the facility or violates a court order or condition of probation currently in effect, the mail shall be turned over to the facility Correctional Investigator, or other designated staff. The Correctional Investigator, or other designated staff, shall secure the mail as evidence for possible use in disciplinary or court proceedings, unless the Chief Administrative Officer, or designee, gives approval for the mail to be photocopied or photographed and the original to be forwarded to the addressee in order to facilitate an ongoing investigation.
 - b. If there is no reasonable suspicion, the mail shall be returned to the sender, if the return address can be determined from the mail itself. If the return address cannot be determined from the mail itself, it shall be immediately disposed of, except that any check or money order shall not be disposed of if the name of the person who signed the check or purchased the money order is readable, in which case reasonable efforts shall be made to determine that person's address and return the check or money order to that person. If the mail that is returned or disposed of is correspondence or if a check or money order is returned or disposed of, the prisoner shall be promptly notified in writing of the action that has been taken (Attachment B).
14. If the mail is secured as evidence, the prisoner shall be promptly notified in writing of the action that has been taken (Attachment B), unless the mail contains information or an item related to criminal activity or violates a court order or a

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condition of probation currently in effect, in which case the prisoner shall not be notified without the approval of the prosecuting attorney.

- a. If the mail is used as evidence in a court proceeding, its final disposition shall be determined by the prosecuting attorney.
 - b. If the mail is only used as evidence in a disciplinary proceeding, it shall be retained as part of the disciplinary record, unless that would create a risk to safety or security (e.g., it contains drugs) or unless it is not possible to do so (e.g., it contains food), in which case the mail shall be disposed of in accordance with Departmental policies and procedures. A photo shall be taken of the mail, including the envelope and all of the contents, prior to its disposal and the photo shall be retained in the disciplinary record.
 - c. If the mail is not used as evidence and the investigation has been completed, the mail shall be forwarded to the prisoner, unless that would create a risk to safety and security (e.g., it contains an escape plan) or unless it is not possible to do so (e.g., it contains food) in which case the mail shall be handled in accordance with Departmental policies and procedures.
15. No foreign substance is to be put in or on any incoming mail, whether by spraying, soaking, affixing, or otherwise. This prohibition includes, but is not limited to, perfume, cologne, lipstick, powder, paint, finger-paint, crayon, colored pencil, glue, glitter-glue, adhesive, glitter, stickers, tape, body fluids, etc. It does not include the postage used to send the mail or a single return name and address label affixed to the upper left corner of the envelope that has only the required adhesive. Mail that comes within this prohibition may be returned to the return address without being opened or may be opened. If the mail is opened and there is reasonable suspicion that it or its contents constitute evidence of criminal activity, violation of the facility's rules or a risk to the safety of persons, security, or orderly management of the facility, the mail shall be immediately turned over to the facility Correctional Investigator, or other designated staff. If there is no reasonable suspicion, the mail shall be returned to the sender or, if the return address cannot be determined from the mail itself, it shall be immediately disposed of. If the mail that is returned or disposed of is correspondence, the prisoner shall be promptly notified in writing of the action that has been taken (Attachment B).
16. If, in any case, there is a reasonable suspicion that any piece of incoming or outgoing mail (whether opened or unopened) itself creates a risk to the safety of persons (e.g., appears to contain a powdery substance), the facility Correctional Investigator, or other designated staff, shall be immediately notified and the prisoner shall not be notified without the approval of the prosecuting attorney.

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17. Unless prohibited under Procedure E.2. or elsewhere in these procedures, a prisoner may receive originals or photocopies of articles from newspapers, newsletters, or magazines or excerpts from books, provided that the original or photocopy consists of only full length pages (no partial pages), there has been no alteration of the article or excerpt, and the name of the newsletter, newspaper, magazine, or book is clearly visible as originally published. It is not acceptable for a correspondent to hand write or type the name of the newsletter, newspaper, magazine or book. Mail, or other designated staff, shall immediately dispose of any original or photocopied materials not meeting these requirements.
18. Unless prohibited under Procedure E.2. or elsewhere in these procedures, a prisoner may receive materials downloaded from the internet or from computer software provided that the material consists of only full length pages (no partial pages), there has been no “cutting and pasting” or other alteration, and, in the case of internet material, the name of the website is clearly visible as originally downloaded from the internet. It is not acceptable for a correspondent to hand write or type the name of the website. Mail, or other designated staff, shall immediately dispose of any downloaded materials not meeting these requirements.
19. A prisoner may not receive downloaded or photocopied e-mail. Unless the mail is turned over to the facility Correctional Investigator, or other designated staff, under Procedure A.13.a., mail, or other designated staff, shall immediately dispose of any e-mail materials.
20. Unless prohibited under Procedure E.2. or elsewhere in these procedures, a prisoner may receive any other original or photocopied materials, provided that the material consists of only full length pages (no partial pages), the materials have not been altered, and, if applicable, the name of the source is clearly visible as originally printed. It is not acceptable for a correspondent to hand write or type the name of the source of the material. Mail, or other designated staff, shall immediately dispose of any original or photocopied materials not meeting these requirements.
21. Unless prohibited under Procedure E.2., or elsewhere in these procedures, prisoners may receive commercial mail, with a verifiable name and verifiable return address, regardless of the postage class, that primarily discusses religious, legal (e.g., court cases, statutes, constitutional provisions, etc.), or political (referendum or election related) subject matter, including, but not limited to, religious, legal, political catalogs, brochures, fliers, pamphlets and solicitations for subscriptions for such materials. Prisoners may also receive catalogs for ordering magazines and books, through pre-paid subscriptions.
22. Prisoners may not receive any other commercial mail, regardless of postage class, including, but not limited to, commercial catalogs, commercial advertisements, solicitations for commercial products or services, including solicitations for pen

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pals, club membership offers, e.g., CD music clubs, book clubs, etc., and any non pre-paid subscriptions. Mail, or other designated staff, shall immediately dispose of any incoming mail consisting of any of these items.

23. A prisoner may receive correspondence regardless of whether it is handwritten, typed, or composed on a word processor.
24. Mail shall be inspected for contraband and distributed to prisoners within twenty-four (24) hours of its delivery to the facility, excluding weekends and holidays, unless it is being withheld for review under Procedure E.2. or for reading or has been turned over to the Correctional Investigator, or other designated staff, to be secured as evidence. Mail shall be collected from prisoners every day, excluding weekends and holidays. Unless mail is being withheld for reading or has been turned over to the Correctional Investigator, or other designated staff, to be secured as evidence, it shall be mailed within twenty-four (24) hours of its collection, excluding weekends and holidays, with the exception that if mail is accompanied by a money transfer, it shall be mailed within three (3) business days. Mail shall not be withheld any longer than is necessary for review under Procedure E.2. or for reading unless it is secured as evidence. If a prisoner is temporarily out of the facility (e.g. in court or in a hospital), incoming mail shall be held in a secure location until the prisoner's return.
25. There shall be no limit on the amount of incoming mail a prisoner is allowed, provided the mail, other than magazines, newspapers and books, is stored in the folders provided by the facility as outlined in Policy 10.1, Prisoner Allowable Property.
26. There shall be no limit on the amount of outgoing mail a prisoner is allowed to send, provided the prisoner has sufficient funds to pay for postage.
27. Each facility shall operate a mailroom, or designate another area, for the processing of mail that is received at or sent from the facility. Staff shall be responsible for processing all mail, incoming and outgoing. Prisoners may only send mail processed by the facility and mailed through the U.S. Postal Service. Prisoners may only receive mail through the U.S. Postal Service or other recognized mail delivery service.
28. Prisoners shall be responsible for notifying their correspondents of all requirements and prohibitions outlined in this policy and procedures specific to incoming mail.
29. If the Commissioner of Corrections, or designee, determines that a prisoner has failed to notify his or her correspondents of all requirements and prohibitions outlined in this policy and procedures specific to incoming mail, resulting in a burden to mail or other staff, or has abused mail procedures, the Commissioner, or

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designee, may impose appropriate restrictions on the prisoner's receipt of incoming mail or use of the prisoner mail system for up to ninety (90) days.

30. Procedures that govern correspondence with prisoners shall be reviewed and updated as required, but at least annually.

Procedure B: Outgoing General Mail

1. Each facility shall provide to prisoners envelopes, paper and writing instruments in reasonable quantities to ensure an opportunity for constructive correspondence. Each prisoner shall be offered free postage for up to two (2) one-ounce letters per week, which may not be carried over from week to week.
2. Each facility shall make available secure prisoner mailboxes in areas accessible to general population prisoners. Prisoners shall place all outgoing general mail in the designated prisoner mailboxes, except that a prisoner who has no access to a prisoner mailbox shall hand all outgoing general mail to a housing unit staff person. The staff shall, that day, either place the mail in a prisoner mailbox or deliver it to the facility mail staff.
3. All outgoing general mail shall conform to the following requirements:
 - a. The prisoner's full name and MDOC #, facility name, and facility address shall be in the upper left-hand corner of the envelope. The envelope must be stamped with the notice and disclaimer that it is coming from a correctional facility. The prisoner shall put nothing other than the recipient's name and address, the prisoner's name, facility name and address, and postage on the envelope. Any envelope not meeting these requirements may be opened and handled as set out in Procedure A.13.
 - b. The mail shall not contain contraband nor any food/drink item, hygiene, health, or comfort item, or prayer or sacred oil. Any mail in violation of this requirement shall be handled as set out in Procedure A. 13.
 - c. The mail shall not contain any correspondence or any item intended for any person other than the addressee or from any person other than the prisoner. Any mail in violation of this requirement shall be handled as set out in Procedure A.13.
 - d. The envelope shall be sealed by the prisoner unless the prisoner has filled out a money transfer form to go with the envelope.
4. Mail, or other designated staff, shall be responsible for the collection of all outgoing general mail. A collection schedule shall be posted in all housing units.

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5. Mail, or other designated staff, shall visually and physically inspect each outgoing envelope to ensure that a Department of Corrections disclaimer appears on the envelope and to check for possible contraband. Outgoing general mail may be opened and inspected when the Chief Administrative Officer, or designee, has reasonable suspicion that the mail contains contraband or is otherwise in violation of this policy and procedures.
6. Mail, or other designated staff, shall ensure the correct amount of postage, paid for by the prisoner or within the prisoner's free mail allotment, is affixed to all general mail and shall take measures to facilitate the affixing of the correct amount of postage to outgoing general mail. If a piece of general mail is not included within a prisoner's free mail allotment and the prisoner does not pay for the correct amount of postage, the mail shall be returned to the prisoner.

Procedure C: Incoming General Mail

1. Except as set out elsewhere in these procedures, mail, or other designated staff, shall open and inspect all incoming general mail envelopes to look for checks, money orders, or contraband. Except as set out elsewhere in these procedures, if a check or money order is found, it shall be removed and credited to the prisoner's account, except that a check or money order for one prisoner that comes from the family or visitors of another prisoner shall not be credited to the prisoner's account without the prior written approval of the Chief Administrative Officer, or designee. If contraband is found, it shall be removed and handled in accordance with Procedure A.12 or A.13, whichever is applicable.
2. All incoming general mail must have both a verifiable return name and a verifiable return address, except as set out in Procedure C.3. The verifiable return name and address may be handwritten, typed, or printed directly onto the envelope or may be on a name and address label affixed to the upper left corner of the envelope.
3. Incoming general mail with a verifiable return address but no return name, which appears to be from a business or agency, shall be opened to determine who it is from. If it is determined to be from a business or agency that does not ordinarily include its name on the outside of envelopes for legitimate privacy reasons (e.g., a bank) and the mail is otherwise acceptable under the provisions of this policy, it shall be forwarded to the prisoner. If the mail is determined to be from someone other than such a business or agency, it shall be handled as set out in Procedure A.13.
4. Any other incoming general mail with a verifiable return address but no name may be returned to the return address without being opened or may be opened. If it is opened, it shall be handled as set out in Procedure A.13.

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5. Any incoming general mail without a verifiable return address (with or without a name) may be opened or may be immediately disposed of without being opened. If the mail is disposed of, the prisoner to whom it is addressed shall be promptly notified in writing (Attachment B). If the mail is opened, it shall be handled as set out in Procedure A.13. If mail without a verifiable return address is disposed of, regardless of whether it is opened, a photocopy of the envelope shall be sent to the prisoner along with Attachment B. If the prisoner is able to determine who sent the mail, the prisoner is required to inform that person of the requirement of a verifiable name and verifiable return address.
6. The envelope shall not contain any correspondence or any item intended for any person other than the addressee or from any person other than the sender, except that it may include correspondence, drawings in regular pencil or ink, photocopies of paintings, and photocopies of colored pencil/crayon drawings from the prisoner's minor children. Any mail in violation of this requirement shall be handled as set out in Procedure A.13.
7. If there is more than one prisoner with the same first and last names, the mail shall be returned to the sender with a notation that the sender will need to include the prisoner's MDOC number or full name.
8. If the prisoner's name is misspelled to the point that the prisoner cannot be identified with reasonable certainty, the mail shall be returned to the sender with a notation that the sender will need to spell the prisoner's name correctly.
9. Mail, or other designated staff, shall be responsible for the distribution of all incoming general mail. A distribution schedule shall be posted in all housing units. The Chief Administrative Officer, or designee, may require staff to remove stamps and/or envelopes prior to the distribution of incoming general mail. If requested by the prisoner to whom the mail is addressed, the prisoner shall be allowed to view the envelope if necessary for the prisoner to determine the sender of the mail.
10. Staff distributing general mail shall deliver the mail directly to the prisoner to whom it is addressed. Staff shall not leave the mail on a table for pick up by prisoners or otherwise leave it in an area accessible to prisoners in general. No prisoner shall be allowed to possess or distribute or otherwise handle mail belonging to another prisoner.

Procedure D: Outgoing and Incoming Privileged Mail

1. Privileged mail is correspondence concerning a legal matter or official government business in any jurisdiction involving a prisoner if the correspondence is between that prisoner and any of the following:
 - a. Attorneys;

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- b. Judges, court clerks, and courts;
 - c. Maine Human Rights Commission;
 - d. Appointed and elected government officials, including, but not limited to, the President, the Governor, commissioners of state agencies other than the Maine Department of Corrections, federal and state senators and representatives, tribal chiefs, and mayors and town and city councilors;
 - e. Advocates of government agencies; and
 - f. Legal advocacy organizations, including, but not limited to, American Civil Liberties Union, Maine Equal Justice Partners, Maine Civil Liberties Union, Disability Rights Center, NAACP Legal Defense Fund, and National Lawyers Guild.
2. Outgoing absentee ballots and outgoing correspondence to the Commissioner of Corrections shall be treated as privileged.
 3. Outgoing privileged mail shall meet the same requirements as outgoing general mail except that the words "Privileged Mail" or "Legal Mail" shall be written by the prisoner on the front of the envelope.
 4. Outgoing privileged mail shall be collected in the same way as is outgoing general mail.
 5. Outgoing privileged mail being sent by a prisoner without funds (on his/her general (trust) account and, if applicable, on a facility debit card) at the time the mail is forwarded shall have free postage affixed. Prisoners are not to be provided free certified mail or other postal services. If the Commissioner of Corrections, or designee, determines that a prisoner has abused this free privileged mail postage privilege (for example, by manipulating the funds in his/her account, marking mail as privileged when it is not, or sending excessive amounts of mail using this free postage privilege), the Commissioner, or designee, may suspend the prisoner's access to free postage for privileged mail for up to ninety (90) days.
 6. Outgoing privileged mail shall be handled in the same manner as outgoing general mail, except that it may not be opened without the prisoner being present, unless it is necessary to open the mail for the sole purpose of determining the identity of the prisoner who sent it. Outgoing privileged mail may be opened and inspected when the Chief Administrative Officer, or designee, has a reasonable suspicion that the mail contains contraband or is otherwise in violation of this policy and procedures but only in the presence of the prisoner.

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7. Outgoing privileged correspondence may only be read by the Chief Administrative Officer, or designee, or other action may be taken with respect to outgoing privileged correspondence, only if, after consultation with the Department's legal representative, it is determined that there is probable cause to believe that the correspondence is being used to plan or conduct criminal activity, e.g., contains threats, obscene language or pictures, or escape or assault plans. All reading of privileged correspondence shall occur in the prisoner's presence.
8. Incoming mail shall be treated as privileged only if it is in an official envelope with a verifiable return address and there is a clear indication that it was sent from a privileged correspondent. The presence of the words "Privileged Mail" or "Legal Mail" on the envelope is neither necessary nor sufficient.
9. Incoming privileged mail shall be handled in the same manner as incoming general mail, except that it may not be opened without the prisoner being present. If incoming privileged mail is inadvertently opened outside the presence of the prisoner, that shall be so noted on the envelope and an entry shall be made in a mail log.
10. Incoming privileged mail shall be opened and inspected with the prisoner present to check for checks, money orders, or contraband. If checks or money orders are found, they shall be removed and credited to the prisoner's account. If contraband is found, it shall be removed and handled in accordance with this policy and procedures.
11. If, upon inspection or opening of the incoming mail or otherwise, it becomes obvious that the mail is not actually privileged, it shall be treated as general mail. If there is a reasonable suspicion that the mail was misrepresented to be privileged mail, it shall be turned over to the facility Correctional Investigator, or other designated staff, who shall consult with the Department's legal representative as to the appropriate action.
12. Upon the receipt of incoming privileged mail by a prisoner, designated staff shall ensure that the prisoner signs for its receipt and that the record of its receipt is maintained.
13. Incoming privileged correspondence may only be read by the Chief Administrative Officer, or designee, or other action may be taken with respect to incoming privileged correspondence, only if, after consultation with the Department's legal representative, it is determined that there is probable cause to believe that the correspondence is being used to plan or conduct criminal activity, e.g., contains threats, obscene language or pictures, or escape or assault plans. All reading of privileged correspondence shall occur in the prisoner's presence.

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Procedure E: Publications and Prohibited Materials

1. Magazines, newspapers, or books may be received by prisoners only if they are sent from publishers or commercial distributors. If a magazine, newspaper, or book is sent from other than a publisher or commercial distributor, the prisoner shall be promptly notified in writing (Attachment C), and the publication shall be returned to the sender or, if the return address cannot be determined from the mail itself, it shall be disposed of. Staff shall immediately dispose of non-allowable items inserted in magazines or newspapers by the publisher or distributor, including, but not limited to, product samples and CDs.

2. Publications and other materials, including correspondence, sent to prisoners are prohibited if they contain any of the following:
 - a. material that depicts or describes a nude child, the genitals, anus, or buttocks of a child, or the chest of a female child;
 - b. material that depicts or describes any sexual act with, sexual contact with, or sexual touching of an animal or child;
 - c. material that depicts or describes sexual violence, sadomasochism, or bondage;
 - d. material that depicts or describes the use or manufacture of drugs, alcoholic substances, firearms, explosives, other weapons, or keys or other security devices, or skills, implements, or other information which could reasonably be used to effect escape or cause harm or injury to persons or property;
 - e. material that depicts any sexual act involving penetration of the genitals, mouth or anus, regardless of the genders of the persons involved;
 - f. material related to gangs or gang activities;
 - g. material that promotes hate, violence or bias;
 - h. material that violates the confidentiality of a prisoner or other person; and
 - i. any other material that is determined by the Chief Administrative Officer, or designee, to:
 - 1) constitute a threat to safety, security, or the orderly management of the facility;
 - 2) contain sexually explicit material which, by its nature, poses a threat to the orderly management of the facility;

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- 3) facilitate criminal activity; or
- 4) is substantially detrimental to a prisoner's rehabilitation, e.g. a sex offender receiving magazines containing pictures of children in underwear or otherwise not fully clothed.

3. The following definitions apply:

- a. child means a person who is under 18 years of age or who appears to be or is pretending to be a child
 - b. sexual act means any act involving direct physical contact between the genitals of one and the mouth or anus of the other; direct physical contact between the genitals of one and the genitals of the other; or direct physical contact between the genitals or anus of one and an instrument or device manipulated by the other when that act is done for the purpose of arousing or gratifying sexual desire
 - c. sexual contact means any touching of the genitals or anus, directly or through clothing, for the purpose of arousing or gratifying sexual desire
 - d. sexual touching means any touching of the breasts, buttocks, groin, or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire
4. If any part of a publication or other material is prohibited under Procedure E.2, the prisoner shall be promptly notified in writing (Attachment C). The prohibited material shall be retained by designated staff until the expiration of the time period for the prisoner to grieve the prohibition. If the prisoner does not file a timely grievance, the material shall be disposed of. If the prisoner does file a grievance, the prohibited material shall be retained pending the resolution of the grievance. In the case of a publication received by multiple prisoners, it shall be sufficient if just one copy of the prohibited material is retained.

Procedure F: Packages

- 1. A package is any mail that consists of a box, regardless of size, or of an envelope larger than 8 1/2" by 11". A package shall meet all the requirements set out in this policy and procedures for general mail, as well as any additional requirements set out in this procedure.
- 2. Prisoners may only send packages processed by the facility and mailed through the U.S. Postal Service, unless an exception is approved by the Chief Administrative Officer, or designee.

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3. The facility's property officer, or other designated staff, shall ensure that any items being sent out of the facility by a prisoner belong to that prisoner and are removed from the prisoner's personal property inventory form and that a copy of the updated inventory form is maintained by the Property Officer, or other designated staff. The package shall not contain contraband nor any food/drink item, hygiene, health, or comfort item, or prayer or sacred oil. Any package in violation of this requirement shall be handled as set out in Procedure A.13.
4. The facility's property officer, or other designated staff, shall ensure that an outgoing package is sealed, properly marked with the name of the prisoner, and forwarded to the mail, or other designated staff. The prisoner shall complete an address label to be affixed to the package. The package must be stamped with the notice and disclaimer that it is coming from a correctional facility.
5. Mail, or designated staff, shall ensure proper postage, paid for by the prisoner, is affixed to all packages or return the package to the prisoner. A prisoner sending a package insured shall be provided the necessary forms and be required to pay all additional charges.
6. Prisoners may only receive packages through the U.S. Postal Service or other recognized mail delivery service and all incoming packages shall be processed by the facility.
7. Incoming packages may only contain items that are ordered through authorized facility practices or books from publishers or commercial distributors or legal materials. A package that does not meet this requirement may be returned to the return address without being opened or may be opened. If the package is opened and there is reasonable suspicion that it or its contents constitute evidence of criminal activity, violation of the facility's rules or a risk to the safety of persons, security, or orderly management of the facility, the package and its contents shall be immediately turned over to the facility Correctional Investigator, or other designated staff. If there is no reasonable suspicion, the package shall be returned to the sender or, if the return address cannot be determined from the package itself, it shall be disposed of. If the package is not allowed because it contains a book that is not from a publisher or commercial distributor, the prisoner shall be promptly notified in writing (Attachment C).
8. Mail, or other designated staff, shall search each incoming package, including any package from a privileged correspondent, for contraband. If contraband is found, it shall be removed and handled in accordance with Procedure A.12 or A.13, whichever is applicable.
9. Mail, or other designated staff, shall forward incoming packages meeting the requirements of this policy and procedures to the facility's property officer, or other

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designated staff. The facility's property officer, or other designated staff, shall ensure that the package is searched again and that items given to the prisoner are added to the prisoner's personal property inventory form and that an updated copy of the form is maintained by the Property Officer, or other designated staff. Any item that is not given to the prisoner shall be disposed of in accordance with Departmental policies and procedures.

10. An incoming package shall be inspected for contraband and distributed to a prisoner within forty-eight (48) hours of its delivery to the facility, excluding weekends and holidays, unless it is being withheld for review under Procedure E.2. or has been turned over to the Correctional Investigator, or other designated staff, to be secured as evidence. Unless an outgoing package has been turned over to the Correctional Investigator, or other designated staff, to be secured as evidence, it shall be mailed within forty-eight (48) hours of collection, excluding weekends and holidays, with the exception that if the package is accompanied by a money transfer, it shall be mailed within three (3) business days. A package shall not be withheld any longer than is necessary for review under Procedure E.2., unless it is secured as evidence. If a prisoner is temporarily out of the facility (e.g. in court or in a hospital), incoming packages shall be held in a secure location until the prisoner's return.

Procedure G: Certified Mail

1. Mail, or other designated staff, shall handle incoming certified mail for prisoners in the same manner as other incoming mail, unless it is return receipt requested. If it is return receipt requested, staff shall not sign for it, without the prior written approval of the prisoner. If the prisoner refuses to give approval, the mail shall be returned to the sender.
2. A prisoner wishing to send certified mail or request other postal services shall be provided the necessary forms and be required to pay all additional charges.

Procedure H: Forwarding Prisoner Mail/Change of Address

1. During the release planning process, the prisoner shall be asked to provide the prisoner's home address or other forwarding address.
2. All changes of the prisoner's home address shall be entered into CORIS and placed in the prisoner's administrative record and case management record.
3. If mail is received for a transferred prisoner, the mail shall be forwarded to the receiving facility for ninety (90) days. When the ninety (90) day period has expired, the mail shall then be returned to the sender. If mail is received for a former prisoner, the mail shall be forwarded to the last known home address or other

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forwarding address for ninety (90) days. If no forwarding address exists or the ninety (90) day period has expired, the mail shall be returned to the sender.

4. If mail is received for a deceased prisoner, the mail shall be returned to the sender.
5. If mail is received for an escaped prisoner, the mail shall be forwarded unopened to the facility Correctional Investigator, or other designated staff.

Procedure I: Written Records

1. In every case in which the Chief Administrative Officer authorizes a designee to read a prisoner's mail, whether outgoing or incoming, the designee shall log the following:
 - a. The name and MDOC number of the prisoner;
 - b. The date and time of reading;
 - c. A description of the mail in question;
 - d. A description of any other action taken and the grounds justifying such action; and
 - e. The name of the designee taking the action.
2. The designee shall attach to the above log a copy of the written authorization from the Chief Administrative Officer to read the prisoner's correspondence.
3. The log shall be forwarded to the Chief Administrative Officer, with copies to other staff designated by the Chief Administrative Officer. Copies of the log shall be placed in the prisoner's administrative record and case management record, and the prisoner shall be notified unless the mail concerns criminal activity or violates a court order or a condition of probation currently in effect. If the mail concerns criminal activity or violates a court order or a condition of probation currently in effect, the prisoner shall not be notified nor shall a copy be placed in the prisoner's case management record without the approval of the prosecuting attorney.

VII. PROFESSIONAL STANDARDS

ACA:

- 4-4266 **Written policy, procedure, and practice provide that inmates in segregation can write and receive letters on the same basis as inmates in the general population.**
- 4-4275 **Written policy, procedure, and practice ensure and facilitate inmate access to counsel and assist inmates in making confidential contact with attorneys and their authorized representatives; such contact includes, but is not limited to,**

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telephone communications, uncensored correspondence, and visits.

- 4-4487 Written policy and procedure govern inmate correspondence; the policies and procedures are reviewed annually and updated as necessary.
- 4-4488 When the inmate bears the mailing cost, there is no limit on the volume of letters the inmate can send or receive or on the length, language, content, or source of mail or publications except when there is reasonable belief that limitation is necessary to protect public safety or institutional order and security.
- 4-4489 Written policy, procedure, and practice provide that indigent inmates, as defined in policy, receive a specified postage allowance to maintain community ties.
- 4-4490 Written policy and procedure govern inmate access to publications.
- 4-4491 Written policy, procedure, and practice provide that inmate mail, both incoming and outgoing, may be opened and inspected for contraband. Mail is read, censored, or rejected when based on legitimate institutional interests of order and security. Inmates are notified when incoming or outgoing letters are withheld in part or in full.
- 4-4492 Written policy, procedure, and practice specify that inmates are permitted to send sealed letters to a specified class of persons and organizations, including but not limited to the following: courts; counsel; officials of the confining authority; state and local chief executive officers; administrators of grievance systems; and members of the paroling authority. Staff, in the presence of the inmate, may be allowed to inspect outgoing privileged mail for contraband before it is sealed. Mail to inmates from this specified class of persons and organizations may be opened only to inspect for contraband and only in the presence of the inmate, unless waived in writing, or in circumstances which may indicate contamination.
- 4-4493 Written policy, procedure, and practice provide for the inspection of inmate letters and packages to intercept cash, checks, and money orders.
- 4-4494 Written policy and procedure govern inspection for and disposition of contraband.
- 4-4495 Written policy, procedure, and practice require that, excluding weekends and holidays or emergency situations, incoming and outgoing letters are held for no more than 24 hours and packages are held for no more than 48 hours. Interpretation August 2002. The words “emergency situation” are interpreted as any significant disruption of normal facility or agency procedure, policy, or activity caused by a riot, escape, fire, natural disaster, employee action, or other serious incident.
- 4-4496 Written policy, procedure, and practice provide for forwarding first-class letters and packages after an inmate’s transfer or release.
- 4-ACRS-6A-01 Offenders have access to counsel and confidential contact with attorneys and their authorized representatives. Contact includes, but is not limited to, telephone communications, uncensored correspondence, and visits.
- 4-ACRS-6A-06 Indigent offenders, as defined in policy, receive a specified postage allowance to maintain community ties.

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- 4-ACRS-6A-07** All regulations concerning offender correspondence should be specified in writing and made available to staff members, offenders, and their correspondents.
- 4-ACRS-6A-08** Offenders mail, both incoming and outgoing, may be opened and inspected for contraband. When based on legitimate facility interests of order and security, make may be read or rejected. The offender is notified when incoming mail is returned or outgoing mail is withheld.
- 4-ACRS-6A-09** Procedures provide for the forwarding of first-class letters and packages after transfer or release.

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