

INTRODUCTION

1. In September 2018, the DOC initiated a series of new measures intended to prevent drugs from entering DOC facilities. These included the introduction of drone-defense measures at DOC prisons, enhanced search protocols for both people incarcerated in DOC facilities and their visitors, restrictions on incoming books and publications, and a new policy that prevents incarcerated people from receiving any mail, whether legal or non-legal, that contains original documents. This lawsuit relates only to the changes in the DOC's handling of legal mail.

2. Although the DOC is not aware of any instance whereby attorneys have introduced contraband into DOC facilities via legal mail, DOC officials started confiscating all incoming legal mail and holding it for 45 days, only allowing recipients a photocopy of their correspondence. This new policy disregards the privileged nature of attorney-client communications and irrevocably compromises the confidentiality of those communications. The new policy severely curtails Plaintiff Davon Hayes' ability to communicate with his attorneys in the Office of the Federal Public Defender.

3. Plaintiff Hayes has a habeas petition pending in the U.S. District Court for the Western District of Pennsylvania and is represented by the Federal Public Defender for the Western District of Pennsylvania. Before enactment of the

new policy, he regularly communicated with his attorneys through the mail. Since the new legal-mail policy went into effect, however, Mr. Hayes' attorneys have been forced to cease all privileged communications with their clients, including Mr. Hayes, because they cannot be assured of the confidentiality of those communications.

4. Absent evidence that attorneys use the mails to send contraband to clients, the DOC's new legal mail policy is an exaggerated, irrational response to a non-problem that deprives Mr. Hayes of an indispensable – and often the only viable -- means of communicating with his attorneys, thereby seriously undermining his lawyers' ability to provide him with zealous and effective legal representation. The DOC's unwarranted interference with attorney-client communications violates the First Amendment to the U.S. Constitution.

5. Mr. Hayes has suffered and will continue to suffer irreparable harm because of the DOC's substantial interference with his First Amendment right to engage in confidential communications with his attorneys regarding ongoing legal matters and to have privileged legal mail kept confidential. Mr. Hayes seeks preliminary, and thereafter permanent, injunctive relief.

JURISDICTION AND VENUE

6. This action to vindicate plaintiff's First Amendment rights is brought under 42 U.S.C. § 1983. This Court has jurisdiction over this action under 28 U.S.C. § 1331.

7. Venue is proper in the Middle District of Pennsylvania pursuant to 28 U.S.C. § 1391(b) in that the parties are subject to personal jurisdiction within the Middle District of Pennsylvania, and events that gave rise to this action occurred within the Middle District of Pennsylvania.

PARTIES

8. Davon R. Hayes is a 33-year-old man who is housed in DOC custody at SCI Smithfield in Huntingdon, PA. Mr. Hayes filed a petition for writ of habeas corpus in the U.S. District Court for the Western District of Pennsylvania that is pending. The Federal Public Defender for the Western District of Pennsylvania is representing Mr. Hayes on his habeas petition.

9. John E. Wetzel is the current Secretary of the DOC. Defendant Wetzel is being sued in his official capacity.

10. Shirley Moore Smeal is the Executive Deputy Secretary of the DOC. Defendant Smeal is being sued in her official capacity.

11. Tabb Bickell is the Executive Deputy Secretary for Institutional Operations for the DOC. Defendant Bickell is being sued in her official capacity.

12. The DOC operates 25 state correctional facilities throughout the Commonwealth that house offenders of the Pennsylvania crimes code. The DOC's Central Office is located at 1920 Technology Parkway, Mechanicsburg, PA 17050.

13. Jamey Luther is the Superintendent of SCI Smithfield. She is responsible for carrying out the DOC's new legal-mail policy at that institution. Defendant Luther is being sued in her official capacity.

FACTUAL BACKGROUND

Confidential Communications Between Attorneys and Clients

14. Courts have recognized for centuries that communications between a client and his/her attorney must be protected from disclosure to third parties. In fact, confidentiality is described as the "cornerstone" of the attorney-client relationship.

15. Clients who fear disclosure of their communications may be reluctant to confide important facts to their attorneys. The lack of free communication inhibits the ability of attorneys to provide advice and representation. The need for confidentiality, therefore, is essential to the attorney-client relationship.

16. Privileged communications between Mr. Hayes and his attorneys include, among other things, questions from his attorneys about facts that could be important to his pending habeas petitions, answers to those questions, questions from Mr. Hayes as to how he can act to preserve or protect his legal rights, discussions about legal strategy or drafts of pleadings or discovery responses, and attorneys' assessment of the his case or certain issues within that case.

17. Confidentiality of attorney-client communications is critical not only to promote the effective legal representation of the client's interests, but also to the overall administration of justice. *See, e.g., Hunt v. Blackburn*, 128 U.S. 464, 470 (1888); *In re Search Warrant B-21778*, 513 Pa. 429, 441 (1987).

18. Indeed, attorneys have an ethical duty to protect from disclosure their communications with their clients. *See* Pennsylvania Rules of Prof'l Conduct, r. 1.6(d) (2018). When the confidentiality of those communications is threatened, attorneys are duty bound to take steps to ensure that those communications remain confidential.

Attorney Communications with Incarcerated Individuals

19. Although imprisonment necessarily involves a loss of certain privacy and liberty rights, it is well-established that people in prison retain First Amendment rights and the right to counsel. "Prison walls do not form a barrier

separating prison inmates from the protections of the Constitution.” *Turner v. Safley*, 482 U.S. 78, 84, 107 S. Ct. 2254, 2259 (1987).

20. The need for confidentiality of attorney-client communications is particularly acute in the prison setting. *See, e.g., Lanza v. New York*, 370 U.S. 139 (1962) (“[Even] in a jail, or perhaps especially there, the relationships which the law has endowed with particularized confidentiality must continue to receive unceasing protection . . .” (citation omitted)).

21. The U.S. Court of Appeals for the Third Circuit has held that “opening properly marked incoming attorney or court mail outside a prisoner’s presence, or reading such mail, infringes the Constitution.” *Bieregu v. Reno*, 59 F.3d 1445, 1450-51 (3d Cir. 1995) (citing decisions from other Courts of Appeals). The Court held that the failure to safeguard attorney-client confidentiality “chills protected expression and may inhibit the inmate’s ability to speak, protest, and complain openly, directly, and without reservation with the court.” *Beiregu*, 59 F.3d at 1452. Indeed, the U.S. Supreme Court has ruled that the *only* way to ensure the confidentiality of legal mail sent to incarcerated people is to require that prison officials open legal mail only in the presence of the individual to whom it is addressed. *Wolfe v. McDonnell*, 418 U.S. 539, 576-77, 94 S. Ct. 2963, 2984-85 (1974).

22. Until recently, the DOC followed a policy for legal mail (“former policy”) consistent with these constitutional requirements. In order to distinguish legal mail, which is entitled to heightened constitutional protection, from non-legal mail, the DOC in the early 2000s established a process of assigning “control numbers” to attorneys.

23. Attorneys would affix the DOC-issued control number to an envelope containing privileged correspondence to individuals in DOC facilities. If the DOC established that the control number matched the attorney’s letterhead, the DOC treated the correspondence as privileged and processed it as legal mail.

24. Officers opening legal mail were supposed to take care that the attorney control number was removed or blacked out before the correspondence was provided to the recipient. That way, the recipients would not be able to share the control numbers with non-lawyers, who might then try to evade the more vigorous inspection process associated with non-legal mail by falsely labeling their correspondence as legal mail. In other words, each attorney’s control number was to remain confidential.

25. The DOC’s new legal-mail policy has not changed this aspect of the legal-mail process.

26. Under the former policy, once DOC staff verified via the control number that the correspondence was legal mail, corrections officers would open

the mail in front of the inmate to briefly check for contraband. Assuming no contraband was found, the staff member would give the legal mail to its recipient. *See* DC-ADM 803 (effective date October 29, 2015), a copy of which is attached hereto as Exhibit 1. Upon information and belief, this process was routinely completed in a matter of seconds.

27. Under the former policy, opened legal mail was never in the custody or possession of prison officials other than for this brief check for contraband. Because prisoners received the original correspondence after DOC officials opened and searched it, and were present at all times when DOC officials handled it, prisoners, and the attorneys who corresponded with them, had reasonable assurance that DOC staff and officials were not reading the legal mail or sharing it with others.

28. Most prison systems use the above-described procedure for opening prisoner legal mail. It has been approved by the Courts. The federal Bureau of Prisons has employed a similar procedure since 1985, which expressly prohibits reading or copying the correspondence. *See* 28 C.F.R. §540.18 (1994).

DOC's Lockdown and Establishment of New Policies

29. On August 29, 2018, the DOC initiated a 12-day state-wide lockdown of all SCIs, during which all inmate visits were cancelled, the delivery of books

and publications to incarcerated individuals was suspended, and the DOC stopped processing all mail, including legal mail.

30. After the lockdown ended, the DOC returned all mail received during the lockdown, including legal mail, to its sender unopened. This included mail from the courts and attorneys.

31. The DOC's stated reason for the lockdown was alleged "reports of multiple staff members being sickened by unknown substances over the past few weeks." *FAQ -- New Procedures*, Pennsylvania Department of Corrections (Oct. 26, 2018, 11:48 AM), <https://www.cor.pa.gov/Initiatives/Pages/FAQ-New-Procedures.aspx>. A copy of the "FAQ -- *New Procedures*" is attached hereto as Exhibit 2.

32. As to how these unknown substances were entering its facilities, the DOC stated as follows:

There are seven points of entry for contraband to enter the facility: mail, legal mail, visits, staff, books/publications, drones and inmates returning to the DOC after having been released. It's speculated that the majority of contraband enters the facilities through the mail.

See Ex. 2.

33. On September 4, 2018, the DOC issued a public statement proclaiming, *inter alia*, that "[f]rom January – June 2018 the Department saw 2,034 drug incidents involving 1,802 inmates. Of these incidents, 309 involved mail & visitors." A copy of the media release is attached hereto as Exhibit 3.

34. The DOC has not publicly broken down the 309 figure to specify how many of those involved visitors and of the remaining ones involving the mail how many came from legal mail.

35. Following the lockdown, the DOC adopted a range of new measures to combat contraband entering the prisons. *See* Exhibit 2 (FAQ -- *New Procedures*). The change to handling of legal mail, at issue in this litigation, is just one of several new interdiction measures.

36. New drug-interdiction measures beyond changes to legal-mail processing include:

- a. A significant change to how non-legal mail is processed whereby all such mail is sent to a DOC third-party vendor in Florida, who will scan the correspondence, transmit the scan to the respective prisoners' DOC facility, which will print the scan and give the copy to the prisoner, Ex. 2 at 1-5;
- b. Restrictions on prisoners' ability to receive books and publications, including a prohibition on prisoners receiving books directly from publishers, from various non-profit prisoner-book-donation organizations, and restrictions on assorted publication subscriptions, all of which were previously allowed, *id.* at 6-8;

- c. Increased scrutiny of visitors, i.e., searches, and various restrictions on items visitors can bring with them and on vending items previously available in SCI visiting rooms, and enhanced penalties for visitation-related violations on both the prisoner and the visitor, *id.* at 8-12;
- d. Expanded use of “body scanners” and introduction of “improved ion scanners,” Ex. 3 at 2-3;
- e. “Expansion of drone detection software and capabilities” to help “identify and combat the introduction of contraband via drones,” *id.* at 2;
- f. “Enhanced commitment reception protocol” to tighten screening of return parole violators and newly arriving prisoners, which the DOC described as “problematic and another way that contraband is introduced into the facilities,” *id.* at 2; and
- g. A new “drug hotline” through which anyone, including prisoners and people wishing to remain anonymous, “can call to report information related to the introduction of drugs or possession of drugs in a SCI by inmates, visitors, or staff members,” *id.* at 3.

37. The DOC subsequently adopted a new policy that prevents all non-legal mail from entering any SCI. See DC-ADM 803 (Effective date: October 3, 2018), a copy of which is attached hereto as Exhibit 4.

38. Under the new non-legal mail policy, all incoming, non-privileged correspondence must be addressed and sent to the DOC's contracted central incoming mail processing center in St. Petersburg, Florida, which is operated by a company called Smart Communications. When Smart Communications receives mail addressed to a person incarcerated within the DOC, it will open and electronically scan the mail and then electronically transmit the scanned copy to the SCI where the person is imprisoned. SCI staff at that facility will then print the scanned copy and deliver it.

DOC's New Legal Mail Policy

39. The same October 3 policy also regulates legal mail (that portion of DC-ADM 803 that relates to legal mail is hereinafter the "New Legal Mail Policy"). The DOC's new policy refers to legal mail as "incoming privileged correspondence." It includes:

- "[m]ail from an inmate's attorney that is either hand-delivered to the facility by the attorney or delivered through the mail system and identified with a control number issued to the sender by the Department's Office of Chief Counsel";
- mail from a court; and

- mail from an elected or appointed federal, state, or local official who has sought and obtained a control number issued by the Department's Office of Chief Counsel [where the communication] involves matters related to a confidential investigation process or similar concerns."

DCM-ADM 803 (Exhibit 4), Glossary of Terms, page 4.

40. The DOC is not aware of any instance in which bona fide legal mail has been a source of contraband, including the "unknown substances" that prompted the lockdown.

41. The DOC is aware of some unspecified number of instances where an incarcerated individual or some other person has learned an attorney control number and provided that number to someone else so that regular mail can be disguised as attorney mail.

42. Under the former policy, officers were directed to "black out" or remove the attorney control number before distributing legal mail, but on occasion, the number is not removed or completely blacked out, thus allowing people to learn the number and pass it along to others. The DOC suspects there may be other ways in which attorney control numbers can be learned by others and used to disguise non-legal mail as legal mail.

43. The DOC suspects that this illegitimate or fake legal mail may be another possible source of entry for these drugs or other substances.

44. To account for this possibility, the New Legal Mail Policy institutes a wholesale change in its procedures for processing all incoming legal mail. Now, rather than simply opening the mail in front of the individual to check for contraband, all legal mail is inspected and copied, with the copy given to the recipient and the original stored at the facility.

45. Specifically, the new policy provides that:

- a. “Incoming privileged correspondence will be opened and inspected for contraband in the presence of the inmate to whom it is addressed.
- b. The incoming privileged correspondence will then be photocopied in the presence of the inmate and the photocopies of the contents shall be delivered to the inmate.
- c. Incoming privileged correspondence delivered to an inmate as described above is to be noted on the Legal Mail Log. The inmate must sign the Legal Mail Log for the mail or the fact that the inmate refused to sign shall be noted.
- d. The original incoming privileged correspondence (including the original envelope or packaging) will be sealed in a manila or opaque envelope(s) in the presence of the inmate. The envelope(s) shall be secured with evidence tape.

- e. The envelope(s) will be marked with the inmate's name and number and the sealed envelope(s) will be deposited into a locked/secured receptacle [that is maintained by a vendor]. . .”

Exhibit 4, page 1-12.

46. Under the New Legal Mail Policy, each DOC facility is responsible for procuring the services of a vendor for the confidential destruction of incoming legal mail. The original incoming legal mail will be maintained for 45 days and then destroyed by the vendor unless the DOC receives a timely request by an individual to access or preserve the original legal mail. The opening of incoming privileged mail in the presence of the inmate also will be video-recorded. Exhibit 4, page 1-12.

47. The mere fact that the original legal mail, once opened, is being stored outside the presence of the incarcerated individual eviscerates the assurances of confidentiality that the First Amendment requires. Further, any page-by-page inspection of legal mail would be equivalent to skimming or reading that mail.

The DOC's Legal Mail Policy Adversely Affects Plaintiff's Ability to Engage in First Amendment-Protected, Confidential Communications with His Attorneys.

48. Concerned about the impact of the New Legal Mail Policy on the confidentiality of attorney-client communications and the privileged nature of

those communications, the Federal Public Defender for the Western District of Pennsylvania has informed all of its clients in DOC facilities, including Mr. Hayes, that it can no longer send privileged material to them or any other clients through the mail.

49. Mr. Hayes also has concerns about receiving privileged communications from his lawyers through the mail because under the New Legal Mail Policy, he cannot be assured that those communications will be confidential.

50. After receiving his copy, the original legal mail is maintained outside his presence for 45 days or more. He has no assurances, other than the DOC's say-so, that his privileged communications will be protected and not exposed to others either inadvertently or intentionally.

51. As currently implemented at SCI Smithfield, Mr. Hayes has additional concerns. For example, when corrections officers copy legal mail at SCI Smithfield, the recipients cannot see how many copies of the mail are being made. In addition, the original privileged legal correspondence is not being placed in a secure location in view of the recipient. Finally, SCI Smithfield is currently copying legal mail despite not having a contract with a vendor to securely store the original privileged legal documents or destroy them, as the New Legal Mail Policy requires.

52. Mr. Hayes reasonably fears that corrections officers or other DOC employees will be able to read his privileged legal correspondence while copying the documents, by making multiple copies of the documents, or by accessing the original documents after they have been copied.

53. Mr. Hayes has no reasonable alternatives to mail for communicating with his attorneys.

54. Since the New Legal Mail Policy went into effect, attorneys have attempted to communicate with their clients through unmonitored telephone calls and in-person visits instead of through mail.

55. Neither of these methods of communications is a viable alternative to confidential correspondence through the mail.

56. In order to have an unmonitored telephone call with an attorney, an individual in DOC custody must ask the correctional facility where he or she is housed to place the attorney on his or her call list so that the individual's phone calls to the attorney's telephone number are not monitored.

57. It often takes a week or more for facilities to process those requests.

58. For example, Mr. Hayes requested that his counsel in this case be placed on his phone call list on Monday, October 15. As of Monday, October 22, Mr. Hayes' counsel still had not been placed on his phone call list.

59. The DOC also allows attorneys to set up unmonitored phone calls with their clients in DOC facilities, but facilities often deny attorneys' requests to schedule those calls.

60. For example, the Federal Public Defender for the Western District attempted to schedule an unmonitored phone call with one of its clients at SCI Greene, but the facility refused to schedule the call or even to provide a message to the client that his attorney had requested that he call her.

61. Meeting with clients in person at DOC facilities is not a feasible alternative to correspondence by mail for attorneys whose offices are often hours away from the facility where their client is incarcerated.

62. Visiting hours at most DOC facilities are limited to 8:30 am to 3:30 pm and only occur on weekends and 2-3 weekdays.

63. For example, the visiting hours at SCI Smithfield are 8:30 am to 3:30 pm Thursday through Monday. No visitation may take place on Tuesdays and Wednesdays.

64. Attorneys must also call ahead to schedule visits to reserve an attorney meeting room in order to have private visits with their clients. Attorneys frequently also must receive advance permission to bring legal pads, files and pens into the visits.

65. But even if an attorney has reserved an attorney meeting room in advance, such rooms are not always available when attorneys arrive, forcing them to meet with their clients in the main visiting room where corrections officers and other individuals can overhear their conversations.

66. In order for an attorney to meet with a client or prospective client at a DOC facility, the incarcerated individual must first request to have the attorney placed on his or her visitation list.

67. It often takes a week or more for attorneys to be added to an incarcerated person's visitation list.

68. For example, counsel in this case sought to meet with a prospective client at SCI Greene in October. It took more than a week for counsel to be placed on the individual's visitation list, delaying counsel's planned visit by more than a week due to limited visiting hours at the facility.

69. Attorneys visiting clients in DOC facilities are also frequently refused permission to hand-deliver documents to, or even share documents with, their clients during in-person visits.

70. DOC rules prohibit attorneys from hand-delivering documents to their clients unless they obtain special permission from the facility, typically referred to as a "gate pass," in advance.

71. DOC facilities often deny attorneys “gate passes,” thus preventing attorneys from providing confidential legal documents to their clients through any means other than by mailing the documents and subjecting them to the DOC’s policy of confiscating privileged documents and copying them.

72. SCI Greene and SCI Phoenix also prohibit attorneys from sharing documents with their death-row clients during visits.

73. An Assistant Federal Public Defender for the Middle District of Pennsylvania requested permission on September 19, 2018, to share a privileged draft of a habeas petition with a client on death row at SCI Greene

74. All visits with death row inmates at SCI-Greene are non-contact, through glass. If an attorney brings documents with her to a legal visit, her client never has physical access to that document. It was the Assistant Federal Public Defender’s intention to hold the pages up to the glass for her client’s review.

75. On September 24, 2018, SCI Greene denied the Assistant Federal Public Defender’s request to bring 150-200 pages of legal documents into the prison. Prison officials informed her that current policy prohibits counsel from bringing in a large document to review during a legal visit, despite the fact that her client would never have physical access to the document. Prison officials stated that the only option was to mail the document to her client, subjecting it to confiscation and copying under the DOC’s new legal-mail policy.

76. As a result, the Assistant Federal Public Defender was unable to review the privileged draft of the habeas petition with her client and was forced to file a motion for extension of time within which to file the habeas petition, which was granted by this Court. *Hicks v. Wetzel*, No. 1:17-cv-1969 (ECF No. 12).

The DOC's New Legal Mail Policy Is an Exaggerated Response that Does Not Address the Problem Sought to Be Solved

77. There is no valid, rational connection between the risk being addressed (which does not involve legitimate legal mail at all) and the wholesale changes now being implemented.

78. The New Legal Mail Policy effectively prevents Mr. Hayes and his attorneys from using the mail to engage in confidential communications.

79. Given the limited access and means by which attorneys and their clients in SCIs can speak by telephone, and the difficulties associated with in-person meetings, communication by mail is essential.

80. Given the absence of any link between bona fide legal mail and the "unknown substances" that have been introduced into DOC facilities, there is no increased burden or adverse impact on the DOC in allowing people incarcerated in their facilities to continue receiving original incoming legal mail.

81. To the contrary, the DOC's interest can be better addressed by improving its attorney control number procedure to prevent or minimize the opportunity for fake legal mail.

82. The New Legal Mail Policy is precisely the type of "exaggerated response" of which the U.S. Supreme Court disapproves. With respect to legal mail, the burden on First Amendment rights and the attorney-client privilege is not reasonably related to the DOC's stated interest or any legitimate penological interest.

83. As a direct and proximate result of Defendants' New Legal Mail Policy, Plaintiff has been and continues to be harmed. The new policy deprives his constitutionally protected communications with his attorneys of confidentiality and chills the Plaintiff's exercise of his First Amendment rights.

84. Unless this Court enjoins, preliminarily and permanently thereafter, Defendants from implementing the new policy, the First Amendment rights of Plaintiff will continue to be abridged.

COUNT I – VIOLATION OF FIRST AMENDMENT RIGHTS

85. Plaintiff incorporates by reference paragraphs 1 through 84 of this Complaint as though set forth fully herein.

86. The First Amendment, as incorporated in the Fourteenth, prohibits states from "abridging the freedom of speech." U.S. Const. Amend. I.

87. Plaintiff has a protected First Amendment right to free speech. *See, e.g., Hirschkop v. Snead*, 594 F.2d 356, 366 (4th Cir. 1979); *Kuchka v. Kile*, 634 F. Supp. 502, 511 (M.D. Pa. 1985) (citing *Hirschkop*). Implicit in this right is the right of plaintiff to engage in confidential communications with his attorneys. *Procunier v. Martinez*, 416 U.S. 396, 408-09, 94 S. Ct. 1800 (1974) (both incarcerated people and those with whom they correspond have First Amendment rights that can be infringed by unjustified government interference).

88. People who are incarcerated "do not forfeit their First Amendment right to use of the mails." *Bieregu v. Reno*, 59 F.3d 1445, 1452 (3d Cir. 1995).

89. A pattern and practice of opening legal mail outside the presence of the addressee interferes with protected communications, strips those protected communications of their confidentiality, and accordingly impinges upon the incarcerated individual's right to freedom of speech. *Jones v. Brown*, 461 F.3d 353, 359 (3d Cir. 2006). Any such practice "deprives the expression of confidentiality and chills the inmates' protected expression, *regardless of the state's good-faith protestations that it does not, and will not, read the content of the communications.*" *Id.* (emphasis added). "[T]he only way to ensure that mail is not

read when opened . . . is to require that it be done in the presence of the inmate to whom it is addressed." *Bieregu*, 59 F.3d at 1456 (citing *Wolff v. McDonnell*, 418 U.S. 539, 576–77 (1974)).

90. The New Legal Mail Policy is not rationally related to a legitimate penological interest, and is therefore void on its face.

91. Unless injunctive relief is granted, the First Amendment rights of Plaintiff will continue to be infringed upon and chilled, and attorney-client communications will lose their confidential, privileged character.

WHEREFORE, Plaintiff seeks judgment in his favor and against Defendants, and in particular seeks:

- A. A declaration that Defendants' actions violate his rights under the First Amendment to the United States Constitution;
- B. An injunction—preliminary and permanent thereafter—enjoining Defendants from copying legal mail and retaining the originals for any amount of time, and disallowing any inspection that would enable officers to skim or read the mail;
- C. Costs, interest and attorney's fees; and
- D. Any other relief deemed appropriate by the Court.

Respectfully submitted,

/s/ Keith E. Whitson

Keith E. Whitson

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/s/ Stephanie A. Short

Stephanie A. Short

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/s/ Danielle T. Bruno

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Attorneys for Plaintiff

Dated: October 30, 2018

VERIFICATION

I, Davon R. Hayes, hereby swear under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the information herein is true and correct to the best of my knowledge.

Executed on October 22, 2018

s/ Davon R. Hayes _____
Davon R. Hayes

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Davon R. Hayes

(b) County of Residence of First Listed Plaintiff Huntingdon County (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) (See Attachment A)

DEFENDANTS John E. Wetzel, Secretary of Department of Corrections, Shirley Moore Smeal, Executive Deputy Secretary of Department of Corrections, and Tabb Bickell, Executive Deputy Sec. for Institutional Operations, and Jamey Luther, Supt. SCI Smithfield

County of Residence of First Listed Defendant Cumberland County (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. § 1983

Brief description of cause: Challenge to constitutionality of prison legal mail policy

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION DEMAND \$ UNDER RULE 23, F.R.Cv.P. CHECK YES only if demanded in complaint: JURY DEMAND: X Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE John E. Jones III DOCKET NUMBER 18-cv-2004

DATE 10/30/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Keith E. Whitson, Esq.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Attachment A

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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.



POLICY STATEMENT
Commonwealth of Pennsylvania • Department of Corrections

Policy Subject: Inmate Mail and Incoming Publications		Policy Number: DC-ADM 803
Date of Issue: September 16, 2015	Authority: Signature on File John E. Wetzel	Effective Date: October 29, 2015

I. AUTHORITY

The Authority of the Secretary of Corrections to direct the operation of the Department of Corrections is established by Sections 201, 206, 506, and 901-B of the Administrative Code of 1929, 71 P.S. §§61, 66, 186, and 310-1, Act of April 9, 1929, P.L. 177, No. 175, as amended.

II. APPLICABILITY

This policy is applicable to all facilities operated under the jurisdiction of, or conducting business with the Department of Corrections.

III. POLICY

It is the policy of the Department to allow an inmate access to communication with members of society through the established public mail system¹, to inspect mail, determine the types of publications allowed, and to review publications intended for inmates. Restrictions shall be related directly to facility order and security, public safety, and obscenity laws and statutes.²

IV. PROCEDURES

All applicable procedures are contained in the procedures manual that accompanies this policy document.

¹ 4-4492

² 4-4487, 4-4488, 4-4490

V. SUSPENSION DURING AN EMERGENCY

In an emergency or extended disruption of normal facility operation, the Secretary/designee may suspend any provision or section of this policy for a specific period.

VI. RIGHTS UNDER THIS POLICY

This policy does not create rights in any person nor should it be interpreted or applied in such a manner as to abridge the rights of any individual. This policy should be interpreted to have sufficient flexibility to be consistent with law and to permit the accomplishment of the purpose(s) of the policies of the Department of Corrections.

VII. RELEASE OF INFORMATION AND DISSEMINATION OF POLICY

A. Release of Information

1. Policy

This policy document is public information and may be released upon request.

2. Confidential Procedures (if applicable)

Confidential procedures for this document, if any, are not public information and may not be released in its entirety or in part, without the approval of the Secretary of Corrections/designee. Confidential procedures may be released to any Department of Corrections employee on an as needed basis.

B. Distribution of Policy

1. General Distribution

The Department of Corrections policy and procedures shall be distributed to the members of the Central Office Executive Staff, all Facility Managers, and Community Corrections Regional Directors on a routine basis. Distribution of confidential procedures to other individuals and/or agencies is subject to the approval of the Secretary of Corrections/designee.

2. Distribution to Staff

It is the responsibility of those individuals receiving policies and procedures, as indicated in the "General Distribution" section above, to ensure that each employee expected or required to perform the necessary procedures/duties is issued a copy of the policy and procedures either in hard copy or via email, whichever is most appropriate.

VIII. SUPERSEDED POLICY AND CROSS REFERENCE

A. Superseded Policy

1. Department Policy

DC-ADM 803, Inmate Mail and Incoming Publications, issued December 2, 2011, by Secretary John E. Wetzel.

2. Facility Policy and Procedures

This document supersedes all facility policy and procedures on this subject.

B. Cross Reference(s)

1. Administrative Manuals

- a. DC-ADM 005, Collection of Inmate Debts
- b. DC-ADM 801, Inmate Discipline
- c. DC-ADM 802, Administrative Custody Procedures
- d. DC-ADM 804, Inmate Grievance System
- e. 6.3.1, Facility Security
- f. 7.3.1, Inmate Reentry and Transition
- g. 7.8.1, Inmate Recreational and Therapeutic Activities

2. ACA Standards

- a. Administration of Correctional Agencies: 2-CO-5D-01
- b. Adult Correctional Institutions: 4-4266, 4-4274, 4-4275, 4-4276, 4-4487, 4-4488, 4-4489, 4-4490, 4-4491, 4-4492, 4-4493, 4-4494, 4-4495, 4-4496
- c. Adult Community Residential Services: 4-ACRS-6A-06, 4-ACRS-6A-08, 4-ACRS-6A-09
- d. Correctional Training Academies: None

3. PREA Standards (28 C.F.R.)

- a. 115.51



PROCEDURES MANUAL
Commonwealth of Pennsylvania • Department of Corrections

Policy Subject: Inmate Mail and Incoming Publications		Policy Number: DC-ADM 803
Date of Issue: September 16, 2015	Authority: Signature on File John E. Wetzel	Effective Date: October 29, 2015

Release of Information:

Policy Document: This policy document is public information and may be released upon request.

Procedures Manual: The procedures manual for this policy may be released in its entirety or in part, with the prior approval of the Secretary/designee. Unless prior approval of the Secretary/designee has been obtained, this manual or parts thereof may be released to any Department employee on an as needed basis only.

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DC-ADM 803, Inmate Mail and Incoming Publications Procedures Manual
Section 1 – General Procedures

Section 1 – General Procedures

A. Mail Privileges

1. An inmate is permitted to correspond with the public, his/her attorney, and public officials.¹
 2. There is no limit to the number of correspondents to whom an inmate may send or from whom an inmate may receive mail.²
 3. An inmate may not:
 - a. correspond with another inmate, former inmate, parolee, probationer, or co-defendant unless approval is given pursuant to this policy;
 - b. transfer or receive through any means whatsoever, negotiable instruments, money, or items of monetary value to or from any other inmate, former inmate, parolee, probationer, co-defendant, the individual family members of any of the preceding individuals, or victim(s) of the inmate's criminal acts or their immediate family members without the prior written approval of the Facility Manager/designee. Approval granted at one facility shall transfer with the recipient inmate to any other Department facility; however, any approval granted or transferred may be revoked for changed circumstances;
- NOTE:** An inmate shall be permitted to receive cancelled checks, but shall NOT be permitted to receive blank checks, cash advances, vouchers, and/or credit/debit/charge cards from any source;
- c. correspond with a current or former employee, current or former volunteer, current or former contract employee, or victim(s) of the inmate's criminal acts (the Office of the Victim Advocate [OVA] will provide verification that an individual is a victim of the inmate's criminal acts, at the request of the Facility Manager/designee) except with the written approval of the Facility Manager/designee. Approval granted at one facility shall transfer with the recipient inmate to any other Department facility; however, any approval granted or transferred may be revoked for changed circumstances;
 - d. send or receive correspondence containing threatening or obscene materials, as well as correspondence containing criminal solicitations or furthering a criminal plan or misconduct offense;

¹ 4-4266, 4-4275, 4-4487, 4-4492

² 4-4266, 4-4487, 4-4488

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- e. use the facility address to fraudulently identify himself/herself as an employee, agent, or representative of the facility; for example:

Theodore Smith, Paralegal
SCI Mahanoy
301 Morea Road
Frackville, PA 17932

- f. write to an individual who has informed the Department, in writing, that he/she does not wish to receive correspondence from the inmate. This restriction is not to be interpreted to infringe on the right of an inmate to correspond with a public official with regard to the performance of his/her official duty **or to file pleadings in a court. When the inmate is given a “no contact” restriction, the name of the individual who requested the restriction and the date the restriction was issued to the inmate shall be entered by the Unit Manager/designee into the Unit Management System under the “Security Concerns” tab;**
- g. correspond with any prohibited party directed through a third party;
- h. correspond with a public official using an address different than the official’s business address;
- i. send battery-operated greeting cards;
- j. **receive greeting cards in colored envelopes (white envelopes are permitted) whether battery-operated or otherwise;**
- k. send or receive “bill-me-later” or free gift transactions;
- l. receive correspondence or homemade artwork that has any item affixed to it (excluding a mailing label that is affixed to the envelope) with glue or other types of adhesives, including tape. **Mailing labels and stamps may be removed from the envelopes to check for contraband;**
- m. **receive personal checks, cash, or money orders sent through the mail. A personal check, cash, or money order discovered during an inspection shall be treated as contraband and held pending any grievance or appeal concerning it. The permitted contents of the mail shall be delivered to the inmate. Money orders will only be accepted through the third-party vendor contracted by the Department. This service allows funds to be posted to inmate accounts electronically and results in quicker access to the funds. The sender must follow the vendor’s procedures to use the service. Additional information concerning the vendor is available through the Department’s website, www.cor.pa.gov. If a family member or friend sends, or has any business, financial entity, or other entity send a financial instrument in an attempt to circumvent the requirement to use the contracted third-party vendor, the financial instrument shall be deemed contraband;**

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- n. **receive any financial instrument including cashier's checks except as part of a legitimate business transaction. If a family member or friend sends, or has any business, financial entity, or other entity send a financial instrument in an attempt to circumvent the requirement to use the contracted third-party vendor, it will be deemed to be contraband. If incoming mail contains a permitted cashier's check, the check shall be recorded, indicating the nature of the receipt, the sender, the amount received, and the date.³ A DC-130B, Cash Transaction Receipt shall be issued to the inmate for all amounts received. The cashier's check shall be forwarded to the facility Business Manager who shall deposit the money into the inmate's account; and/or**
 - o. **receive official documents such as a driver's license, birth certificate, social security card, welfare card, medical card, etc. Such documents contained in incoming mail shall not be delivered to the inmate, but shall be placed in the designated safe, area, or file. Mailroom staff shall notify the inmate and his/her counselor of the document being held and forward only the correspondence to the inmate.**
4. **The facility will refuse any of the following:**
- a. **mail that has postage due;**
 - b. **mail that does not contain a return address consisting of the sender's name, street address, including a suite or apartment number as applicable, city, and state (the official state abbreviation may be used). Correspondence from a foreign country must also include the name of the foreign country; and**
 - c. **incoming mail for an inmate that is not addressed with the approved inmate name and Department number as reflected on the inmate roster. If an inmate has been transferred or released, mail shall be forwarded, unopened, to the new address, if known, for 60 days.⁴ If no forwarding address is available, mail shall be refused. It is the responsibility of the inmate to notify correspondents and the original source of publications of a change of address.**
5. **Each facility shall procure an ink stamp (Attachment 1-A). When incoming mail is refused, the ink stamp shall be applied to the item and the reason the mail was refused checked.**
6. **When the delivery of incoming correspondence has been accepted and any item other than a publication contained therein is determined to be prohibited:**
- a. **The permitted contents shall be delivered to the inmate. The mailroom staff shall complete and send to the inmate a Notice of Unacceptable Correspondence Form (Attachment 1-B). A copy of the Notice of Unacceptable**

³ 4-4494,

⁴ 4-4496, 4-ACRS-6A-09

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- Correspondence Form shall be sent to the Security Office at the facility and to the sender of the correspondence, if identifiable.**
- b. **The inmate may file a grievance from the Notice of Unacceptable Correspondence within 15 working days of the date the Notice is sent. The inmate shall use the DC-804 Part 1, Official Inmate Grievance Form; the sender shall appeal by writing a letter addressed to the Facility Manager, containing a copy of the Notice of Unacceptable Correspondence and clearly stating the reason the sender believes the correspondence should have been accepted.**
 - c. **The grievance shall be assigned for processing pursuant to the procedures in Department policy DC-ADM 804, "Inmate Grievance System" which are available online at the Department's official website www.cor.pa.gov and the appeal process set forth therein shall govern all subsequent levels of challenge.**
 - d. **The mailroom or security office shall hold the prohibited items for at least 30 working days after notification is sent to permit reasonable opportunity to appeal the decision and pending resolution of any grievance appeal.**
 - e. **The mailroom or security office shall deliver the prohibited/item(s) to the inmate if permitted as a result of the appeal, or mark the item(s) appropriately and either mail them out of the facility at the inmate's (if known) option and expense, or if the inmate does not choose and pay for the item to be mailed, destroy the item(s), hold the correspondence item(s) for investigation, as evidence, or otherwise dispose of it properly. Material that cannot be legally mailed will not be sent.**
7. When an inmate wishes to correspond with an inmate at another facility (whether under the Department's jurisdiction or the jurisdiction of any other state, county, or federal agency or contractor) or a juvenile in a detention center:
- a. neither inmate can be in disciplinary custody status;
 - b. each inmate must submit a request to the counselor at his/her current facility; the request must include the name and number of the other inmate, the relationship between them, **the reason for the correspondence**, and the name of the facility where the other inmate is located;
 - c. the counselor will verify the relationship between the inmates, and prepare and circulate a **DC-46, Vote Sheet**;
 - d. if approved, the counselor will prepare a **Correspondence Between Inmates Form (Attachment 1-C)**, obtain the Facility Manager/designee's signature, and forward it to the Facility Manager/designee of the other facility;

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- e. the Facility Manager/designee at the recipient inmate's facility shall review the **Correspondence Between Inmates Form** and determine whether to approve the request to correspond;
 - f. if both Facility Managers/designees approve the request, a copy of the **Correspondence Between Inmates Form** shall be placed in the **DC-14, Counselor File**, a notation shall be made in the automated Inmate Cumulative Adjustment Record (ICAR), and the mailroom supervisors at both facilities shall be notified; **and, when inmates have been permitted to correspond because of a pending case, the Mailroom Supervisor shall verify the status of the case with the Department's Office of Chief Counsel every six months. Unless permission to correspond has been otherwise terminated, the Mailroom Supervisor shall notify every staff member who was designated to receive a copy of the Correspondence Between Inmates Form approving the correspondence when the case has been completed and the permission to correspond will be terminated;**
 - g. the inmates must refrain from mentioning facility security, staff, or inmates in their communication;
 - h. the facility may read both incoming and outgoing correspondence between the inmates, to ensure compliance with the conditions of these procedures;
 - i. permission to correspond with an inmate at a facility under the Department's jurisdiction or the jurisdiction of any other state, county, or federal agency or contractor or a juvenile in a detention center **shall be reviewed by the Facility Manager/designee at least every six months** and may be withdrawn at any time; and
 - j. **permission to correspond granted at one facility shall transfer with the inmate to any other Department facility; however, any approval granted or transferred may be revoked for changed circumstances and affected parties shall be notified by the Facility Manager/designee.**
8. Each inmate will be permitted, without cost, to mail eight, one-ounce, first-class letters per month.⁵
9. There will be no limit on the number of letters that an inmate may send at his/her own expense.⁶ Envelopes are available for purchase through Commissary. If an inmate has purchased envelopes prior to a transfer to another facility, the inmate shall be allowed a one-for-one exchange of envelopes upon arrival at the new facility.
10. No threatening, obscene, **or if the inmate is under the age of 18**, explicit sexual material, **pictorial** nudity, contraband, material containing a criminal solicitation, or

⁵ 4-4489, 4-ACRS-6A-06

⁶ 4-4488

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material describing or in furtherance of a criminal plan **or misconduct offense** may be contained in the mail or placed on the envelope. If opened, such mail/envelope **shall be returned to the sender at the inmate's expense (except that material which cannot be mailed legally will not be returned)** or disposed of at the inmate's expense.

11. All outgoing mail shall include on the envelope the fully-approved inmate name, Department inmate number, and return address printed in a legible, undisguised manner on the upper, left-hand corner of the envelope. An envelope not bearing this information will be opened and returned to the inmate, if identified. **EXCEPTION: To preserve the confidentiality of inmates reporting allegations of sexual assault to the Pennsylvania State Police (PSP), an envelope addressed to: BCI/PREA Coordinator, 1800 Elmerton Avenue, Harrisburg, PA 17110 is not required to include the inmate name or Department number. [28 C.F.R. §115.51(b)] PSP has asked that an inmate reporting an allegation of sexual assault include his or her name and inmate number within the body of the letter contained inside the envelope so that PSP can identify the person making the allegation and communicate with them as PSP deems necessary.**
12. All outgoing correspondence will be stamped “**Inmate Mail – PA. DEPT. OF CORRECTIONS.**”
13. The inmate shall seal and place all outgoing correspondence in the collection boxes provided in each housing unit and/or other designated locations.
14. Photographs containing obscenity, explicit sexual material, or nudity, as specified in **Section 3** are prohibited.
15. **No inmate may possess and the Department will not disseminate to any inmate obscene material in any form.**
16. In accordance with **18 Pa. C.S.A. §5903**, the Department will not disseminate obscene, **nude**, or explicit sexual materials **in any form** to an inmate under the age of 18. Any inmate under the age of 18 found to be in possession of obscene or explicit sexual materials will be subject to a misconduct in accordance with Department policy **DC-ADM 801, “Inmate Discipline.”**

B. Stationery, Pen, and Postage for Indigent Inmates

Upon written request, an indigent inmate, as defined in the Glossary of Terms, shall be provided with stationery and a pen, and shall be able to anticipate the cost for postage to file papers necessary **for** the good faith pursuit of legal remedies.⁷

1. No-Cost Stationery and Pens

⁷ 4-4274, 4-4276, 4-ACRS-6A-06

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- a. An inmate may submit a **DC-135A, Inmate Request to Staff Member for no-cost stationery** to the Facility Business Manager/designee. The request shall contain:
 - (1) the date of the request;
 - (2) whether a pen is needed;
 - (3) the current balance in his/her inmate facility account, if known; and
 - (4) the name of the court in which the case is pending, the case/docket number, the caption/title of the case, and type of case.
- b. The Business Manager/designee shall review the information contained in the **DC-135A**, and verify that the inmate has insufficient funds to purchase the needed material.
- c. The Business Manager/designee shall respond to the request within five working days of receipt.
- d. Upon approval, the inmate shall be provided free of charge:
 - (1) a pen of the type permitted under the policy and rules governing the inmate's housing unit; and
 - (2) a packet of 50 sheets of clean **8 1/2" x 11"** paper. *If* the quantity of paper proves to be insufficient, the inmate may submit a request for one more additional packet per month.

2. Postage and Copying

a. Anticipated Postage

- (1) An indigent inmate may anticipate on his/her account, postage for legal mail, to include exhaustion of grievances, and copying charges up to \$10 per month.⁸ Under no circumstances, shall the Business Manager/designee approve requests in excess of \$10 per month. An inmate is responsible for managing his/her funds and monthly postage allowance to meet his/her legal needs.
- (2) The Business Manager/designee shall respond to a request to anticipate postage within five working days of receipt.
- (3) After all deductions are taken in accordance with Department policy **DC-ADM 005, "Collection of Inmate Debts"** any money received in an inmate's account shall be used to satisfy the postage debt and copying fees.

⁸ 4-ACRS-6A-06

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b. Postage Limitations

An **indigent** inmate will be permitted to anticipate the deposit of funds into his/her account for regular first-class postage only except that:

- (1) a “Petition for Review” to respondents **and filed in the Commonwealth Court** is the only legal document required to be served by certified mail. **An inmate may anticipate funds to file and serve a Petition for Review by certified mail and may also anticipate funds to include a return receipt for the certified mail if the inmate chooses to do so;**
- (2) an inmate may not be permitted to anticipate the deposit of funds into his/her account to mail documents in any case in which he/she is not a party;
- (3) any misuse of postage and incomplete or false requests shall be grounds for disapproval of any further anticipation for postage and for discipline; and
- (4) the inmate may seek review of any decision regarding this Section as outlined in Department policy **DC-ADM 804**.

C. Inmates Who Regularly Use Names Different from the Name on the Commitment Form

1. An inmate who has made a permanent legal change in his/her name, so that it differs from the commitment name, may submit a request to the Facility Manager for permission to use the new name for limited purposes. This request must include the reason(s) why the inmate wishes to use the new name.
2. The Facility Manager shall review and grant permission for limited use of the **approved** name if the name was changed for legitimate reasons. Legitimate reasons shall include changes because of change in gender, marital status, religious reasons, and ethnic identification. Only permanent name changes will be approved. Multiple changes will not be honored.
3. The Facility Manager shall notify the inmate of his/her decision on the request to use the new **approved inmate** name. If the request is approved, the Facility Manager shall inform the inmate in writing of the permitted uses of the newly **approved inmate** name. The Facility Manager shall advise the inmate that the newly **approved inmate** name may not be used to mislead or commit fraud and that abuse of the guidelines established for this procedure may result in withdrawal of approval to use the newly **approved inmate** name. If this request is disapproved, the Facility Manager shall explain the reasons for disapproval.
4. The facility is not required to permit an inmate to use a new name, which has not been approved by these procedures.
5. The newly **approved inmate** name shall be added to the inmate’s records as an AKA (also known as). No Department records will be changed absent a court order specifically

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directing that the records be changed. If such an order is issued, it shall be referred to the Office of Chief Counsel for review. This type of change will not be handled pursuant to the procedures established here. A court order authorizing and ordering a change of name does not automatically mandate changes in existing records.

6. When an inmate changes his/her name, the Records Office shall notify the OVA and the Parole Supervisor at the facility.
7. The inmate must continue to respond when addressed by his/her commitment name and to sign the commitment name for all purposes except those listed below.
 - a. A visitor may identify the inmate he/she wishes to visit by using the newly approved ***inmate*** name.
 - b. The inmate may execute a **DC-155, Power of Attorney authorizing the endorsement of checks in the newly approved inmate name**. A notation shall be made on the second form indicating this form does not supersede the **DC-155** under the commitment name, but is only additional authorization.
 - c. After the execution of the new **DC-155** the inmate may receive ***deposits to his or her inmate account using the newly approved inmate name***.
 - d. It is the inmate's responsibility to advise any person who wishes to use the newly approved ***inmate*** name for the purposes described above that he/she must, whenever using the newly ***approved inmate*** name, also provide other data; inmate number and commitment name, so that the facility can identify the inmate. A visitor, correspondence, **or** publication that does not present or contain data sufficient to identify the inmate may be disapproved.
 - e. It is the inmate's responsibility to change his/her name on his/her social security card ***using the procedures required by the Social Security Administration (SSA)*** (refer to Department policy 7.3.1, "**Inmate Reentry and Transition.**"). ***The Department has been informed that*** a new card will be issued with the inmate's original social security number. A new number is not issued for a name change. The inmate will have to send the original Court Order that grants the legal name change with the application for name change. Photocopies or notarized copies of documents are not accepted.
8. An inmate shall be issued and charged for the replacement ID card in accordance with Department policy 6.3.1, "**Facility Security**" ***when he or she has been authorized to use a newly approved inmate name***.
9. The inmate shall be charged \$10 for a new fingerprint card that is required for a name change.

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10. Abuse by the inmate of any of these guidelines shall be treated as disobedience of a direct order, and may be grounds for revocation of permission to use the newly **approved inmate** name, and for disciplinary action.

11. An inmate may **seek review of** a decision pursuant to these procedures **by filing an inmate grievance under Department policy DC-ADM 804.**

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Section 2 – Security Procedures

Section 2 – Security Procedures

A. Incoming Correspondence Other Than Privileged Correspondence

1. Incoming correspondence, other than privileged correspondence, shall be opened in the facility's mailroom by staff and inspected for contraband. Staff will not read incoming correspondence, **privileged or otherwise**, unless authorized to do so under the applicable provisions of this policy. **Correspondence from the Department's Office of Chief Counsel is not privileged and is to be opened in the mailroom.**
2. Incoming correspondence, other than privileged correspondence, may be read upon the written order of the Facility Manager/designee. Incoming correspondence, other than privileged correspondence, may be reproduced upon written order of the Regional Deputy Secretary only when there is reason to believe that the security of the facility may be threatened, that this directive is being violated, or there is evidence of criminal activity or of a misconduct offense, or in connection with an investigation being conducted by the Office of Special Investigations and Intelligence (OSII).¹
3. The Facility Manager/designee shall review the status of the facility's mail monitoring on a monthly basis. In cases where the Regional Deputy Secretary's approval is required, a request must be made in writing every **60** days for continued reproduction of correspondence. This request should also include a brief update of the ongoing investigation.
 - a. The facility Security Office shall submit a quarterly report to the Regional Deputy Secretary outlining all inmate correspondence being monitored/reproduced on the **Inmate Correspondence Tracking Form (Attachment 2-A)**.
 - b. If approved by the Regional Deputy Secretary, the Chief of Security/OSII/designee will notify the Facility Manager/designee and the Intelligence Gathering Captain to commence monitoring and/or photocopying the correspondence. A request must be made in accordance with **Subsection A.2. above** to continue reproduction of correspondence.
4. Federal, State, and local income tax filing documents shall not be delivered to an inmate, as these may be used to file fraudulent tax returns. If an inmate has a legitimate need to file a tax return, he/she may request the proper forms from the Unit Management Team.
5. When a refund check from the Pennsylvania Treasury Department, **another state**, the Internal Revenue Service (IRS), **a foreign country, or a county or municipality of any of the preceding is received**, mailroom staff shall notify the Intelligence Gathering Captain/Security Lieutenant. **If issued by the Commonwealth**, these checks are identifiable by the address information that shows through the window on the envelope, REVREFUND, is printed and visible. **For a United States or Commonwealth check**, the Intelligence Gathering Captain/Security Lieutenant shall contact the PA Department of

¹ 4-4491, 4-ACRS-6A-08

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Revenue/IRS Office of Criminal Tax Investigations and advise them of the inmate's name, social security number, and check amount. The PA Department of Revenue and/or IRS representative will advise the Security Office as to the legitimacy of the refund. ***The Office of Chief Counsel shall be contacted if tax refund checks are received from other sources.***

6. When a birth certificate, Social Security Card, Driver's License, etc., is received for an inmate, mailroom staff will forward it to the Business Office (to be held until the inmate is released), and notify the inmate and his/her counselor of the receipt of the document(s).
7. When any documentation concerning Uniform Commercial Code (UCC) filings, the redemptive process, "Acceptance for Value" presentments, or documents indicating copyright or attempted copyright of a name is received, mailroom staff shall notify the Intelligence Captain/Security Lieutenant. An **Unacceptable Correspondence Form (Refer to Attachment 1-B in Section 1 of this procedures manual)** shall be completed and sent to the inmate **and the sender, if identifiable**. The inmate shall have **15 working** days from the date of the notice to provide in writing to the Intelligence Captain/Security Lieutenant an explanation of the legal basis or purpose for his/her possession of the material. In the alternative, the inmate may choose to file a grievance under Department policy **DC-ADM 804, "Inmate Grievance System"** explaining the legal basis or purpose for his/her possession of the material. Any and all documents or materials referenced in this paragraph shall be confiscated and considered contraband, whether processed through the mailroom or found anywhere else within the facility.
8. Account Statements
 - a. Inmate Savings/**Investment** Accounts
 - (1) An inmate is permitted to maintain a savings account ***that was opened prior to his/her incarceration. An inmate who maintains such an account may receive account statements and correspondence from the financial institution holding the account, provided that he or she informs the facility's mailroom supervisor of the name of the financial institution.***
 - (2) ***An inmate is permitted to open one savings account during his or her incarceration. An inmate who maintains such an account may receive account statements and correspondence from the financial institution holding the account, provided that he or she informs the facility's mailroom supervisor of the name of the financial institution.***
 - (3) ***An inmate is permitted to open one investment account during his or her incarceration. An inmate who maintains such an account may receive account statements and correspondence from the licensed investment professional through whom the account is established, provided that he or she informs the facility's mailroom supervisor of the name of the licensed financial institution or licensed investment professional through whom the account is established.***

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- (4) All savings/**investment** account passbooks and account identification (e.g., account identification card, check cashing, etc.) shall be held by the facility Business Office until the inmate is released.
 - (5) Savings/**investment** account statements and deposit and withdrawal slips may be held by the inmate with his/her personal property, unless there is reason to believe that there is a threat to facility security or criminal activity, in which case, the materials will be considered contraband.
- b. Inmate Checking Accounts
- (1) An inmate with a checking account opened prior to his/her incarceration shall not use the account while incarcerated.
 - (2) The opening of a checking account while incarcerated is prohibited.
- c. Inmate Credit or Charge Account **or Debit Account**
- (1) An inmate with a charge card, credit card account, **or debit account** opened prior to his/her incarceration shall not charge to the account **or make expenditures from the account** while incarcerated.
 - (2) The opening of a charge card, credit card account, **or debit account** while incarcerated is prohibited.
 - (3) “Blank checks” or “cash advance vouchers” associated with charge and credit card accounts **or debit accounts** are considered contraband, and shall not be provided to inmates.
 - (4) Credit or charge account **or debit account** solicitations and applications are considered contraband, and shall not be provided to inmates.
 - (5) Account statements for inmates who opened a charge card, credit card account, **or debit account** prior to incarceration, may be held by the inmate with his/her personal property, unless there is reason to believe that there is a threat to facility security or criminal activity, in which case, the materials will be considered contraband and confiscated by staff.
- d. **Other Investments**
- (1) **An inmate is prohibited from acquiring or transferring stocks, bonds, or any other form of security or investment other than as set forth in Subsection A.8.a.(3) above.**

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- (2) ***An inmate who wishes to transfer stocks, bonds, or any other form of security or investment acquired prior to his or her incarceration must place the security under the control of a third party who is neither an inmate nor a parolee.***

B. Incoming Privileged Correspondence

1. Incoming privileged correspondence will be opened and inspected for contraband in the presence of the inmate to whom it is addressed. ***Incoming privileged correspondence delivered to an inmate is to be noted on the Legal Mail Log (Attachment 2-B). The inmate must sign the Legal Mail Log for the mail or the fact that the inmate refused to sign shall be noted.***
2. If upon opening the envelope in the presence of the inmate, the staff member, without reading the contents, notices that the envelope contains absolutely no legal material (e.g., contains only a publication readily available to the public with no notations from counsel), the staff member shall not issue the contents to the inmate and shall complete a **DC-121, Part 3, Employee Report of Incident**, in accordance with Department policy **6.3.1, “Facility Security.”** The report shall include: the contents that were deemed not to be legal material; the name and Department number of the inmate who received the mail; and the name and address of the person who sent the mail. The Facility Manager/designee shall forward a copy of the staff member’s report to the Office of Chief Counsel and the Central Office Security Division for review and tracking.
3. Incoming privileged correspondence ***may be read upon the written approval of the Secretary/designee*** when there is reason to believe that there is a threat to facility security or criminal activity.
4. ***In cases where the Secretary’s approval to read incoming privileged correspondence is required, a request must be made in writing every 30 days for continued reproduction of correspondence. This request should also include a brief update of the ongoing investigation.***

C. Outgoing Correspondence Other Than Privileged Correspondence

1. The Facility Manager/designee may authorize the opening and reading of outgoing correspondence other than privileged correspondence only when there is reason to believe that the security of the facility may be threatened, that this directive is being violated, there is evidence of criminal activity or of a misconduct offense, or in connection with an investigation being conducted by the OSII.²
2. Outgoing correspondence other than privileged correspondence may be reproduced upon written approval of the Regional Deputy Secretary only when there is reason to believe that the security of the facility may be threatened, this directive is being violated, there is evidence of criminal activity or of a misconduct offense, or in connection with an

² 4-4491, 4-ACRS-6A-08

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investigation being conducted by the OSII. ***If the request to reproduce the correspondence originated with OSII or the Central Office Chief of Security, the Chief of Security/OSII/designee will notify the Facility Manager/designee and the Intelligence Gathering Captain to commence monitoring and/or photocopying the correspondence upon approval of the Regional Deputy Secretary. A request must be made in accordance with Subsection A.2 above to continue reproduction of correspondence.***

3. ***The facility Security Office shall submit a quarterly report to the Regional Deputy Secretary outlining all inmate correspondence being monitored/reproduced on the Inmate Correspondence Tracking Form.***

D. Outgoing Privileged Correspondence³

1. Outgoing privileged correspondence will not be opened, read, censored, or reproduced outside the presence of the inmate, except under the following conditions:
 - a. the Facility Manager/designee ***may*** request, in writing, the opening, reading, censoring, and/or reproducing of outgoing privileged ***correspondence*** outside the inmate's presence and transmit the request to the Secretary/designee and set forth the reasons for the request; and
 - b. the Secretary/designee may grant permission to open, read, censor, and/or reproduce outgoing privileged ***correspondence*** outside of the inmate's presence only when there is reason to believe there is a threat to facility security or criminal activity including, but not limited to, the following:
 - (1) any information relating to a possible escape;
 - (2) the introduction of weapons, drugs, money, or other contraband that presents a clear threat to the security of the facility;
 - (3) any information relating to a possible prison disturbance or other activity that presents a clear threat to the security of the facility; and
 - (4) any information relating to other criminal activity; specifics of the suspected activity must be provided.
2. A log shall be kept of instances where outgoing privileged correspondence is opened, read, censored and/or reproduced, and the inmate shall be notified unless such notification would impede an investigation of a threat to facility security including a misconduct offense or suspected criminal activity. The inmate shall be notified that his/her mail was opened, read, censored, and/or reproduced at the completion of the investigation.

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E. Electronic Mail (Email)

1. All inmate emails are monitored by a software program designed to alert staff if an email contains inappropriate content.
2. Facility mailroom staff shall forward any email that contains inappropriate content to the facility Security Office for review.
3. The facility Security Office shall review the email content for threats to the security of the facility, evidence of criminal activity, or any violations of this **procedures manual**.
4. If the facility Security Office has determined that the email is not a threat to the security of the facility, evidence of criminal activity, or in violation of this **procedures manual**, it will be returned to the mailroom to be delivered to the inmate.
5. Email may be read and reproduced by the facility Security Office, the Central Office Security Office, and/or the OSII.
6. ***Any inappropriate email will be rejected with a notice to the sender stating:***

The referenced message was rejected as containing inappropriate content. If you wish to appeal the rejection you must send a written appeal to the Facility Manager within 15 working days of this message. Further information is available in Department policy DC-ADM 803, Section 3, which can be found at www.cor.pa.gov.

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Section 3 – Handling and Distribution of Mail

Section 3 – Handling and Distribution of Mail

A. Incoming/Outgoing Inmate Mail

1. Outgoing mail placed in housing unit collection boxes or other designated locations shall be collected each day, Monday through Friday **excluding state/federal holidays**. A reasonable effort shall be made to ensure that such mail is delivered to the US Postal Service on the same day.
2. Outgoing mail shall NOT be placed in the lock-boxes designated for inmate grievances and/or **DC-135A Inmate's Request to Staff Member** forms.
3. The inmate will be notified when outgoing mail is being held.¹
4. ***Incoming correspondence may contain copies of internet pages, news clippings, articles, print-outs, or material from social networking, social media, or internet sites if such material otherwise complies with the provisions of this procedures manual. The content of internet pages, news clippings, articles, print-outs, or material from social networking, social media, or internet sites will be reviewed by mailroom staff. Content that may violate the criteria set forth in Subsection E. below shall be forwarded to and reviewed by the Inmate Publication Review Committee (IPRC).***
5. ***Incoming correspondence may contain photographs; however, an inmate may receive duplicate photographs only with the permission of the Facility Manager/designee. This provision is intended to permit an inmate to send a photograph taken in the visiting room to a duplication service and to receive duplicates of the photograph from the duplication service. The content of photographs will be reviewed by mailroom staff. Content that may violate the criteria set forth in Subsection E. below shall be forwarded to and reviewed by the IPRC. Nothing in this policy shall be interpreted to permit an inmate to possess more photographs than permitted by the policy governing the inmate's housing status.***
6. Incoming mail, including packages, will be processed Monday through Friday excluding state/federal holidays as outlined below.
 - a. An inmate who wishes to have his/her mail held by the mailroom while on an Authorized Temporary Absence (ATA) must submit **a** written notice to the mailroom supervisor. A **DC-135A may** be used for this purpose.
 - b. Each piece of incoming mail shall be delivered to the inmate within 24 hours of processing, unless the mail contains content requiring review by the IPRC in accordance with **Subsection E. below** or the mail is being held for investigative

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purposes. Packages shall be held no more than 48 hours, excluding weekends and holidays, unless being held for investigative purposes.²

- c. An inmate who receives a letter of a disturbing nature should bring the matter to the attention of the housing unit officer and make arrangements to discuss the problem with his/her unit manager or counselor.

B. Presorted Standard Mail

Magazines and newspapers sent by Presorted Standard Mail will be accepted and reviewed according to the Department's policies and procedures.

C. Certified or Registered Mail

1. Each facility shall establish procedures in cooperation with the local Postmaster for the processing of certified and registered mail.
2. ***The inmate is responsible for determining whether mail is to be sent via certified or registered mail.***
3. Except as provided in **Section 1** of this procedures manual, the inmate must have funds available in his/her account and an approved cash slip for such postage payment in order to send mail certified or registered.

D. Inmate Organization Correspondence

1. Only approved inmate organizations as defined by Department policy **7.8.1, "Inmate Recreational and Therapeutic Activities"** may send and receive mail.
2. Payment of postage is the responsibility of the inmate organization.
3. All incoming and outgoing inmate organization correspondence must be reviewed and approved by the facility staff coordinator for the organization.
4. ***All outgoing correspondence must be reviewed by the staff coordinator for the organization to ensure compliance with Department policies.***
5. ***Outgoing correspondence must be sealed and delivered to the mailroom by the staff coordinator.***
6. ***An inmate organization may not send mail to an inmate of any federal, state, or county prison or of any juvenile detention center.***

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Section 3 – Handling and Distribution of Mail**

E. Incoming Publications

1. General Procedures

- a. Incoming publications are **governed by this policy and are not to be considered outside purchases. Inmates in general population may receive incoming publications subject to any applicable limit on the amount of property the inmate is permitted to store. Inmates in any housing status other than the facility's general population, may receive incoming publications unless the receipt of publications is prohibited by the policy applicable to the inmate's housing status. Incoming publications will be searched for contraband and reviewed for content. The covers of publications may be damaged through examination or removed where inspection of the cover is deemed necessary and no reasonably available alternative form of inspection is adequate.**³
- b. **Incoming** publications must be received from **their** original source. **Single copies of small letter-sized pamphlets may be received in regular correspondence from family members, friends, or religious advisors.** ⁴
- c. Newspapers may be mailed or delivered to the facility **by an original source.**⁵
- d. Books, newsletters, and other mail from non-profit religious and charitable organizations, when addressed to an individual inmate shall be delivered to the inmate even if mailed at less than first or second-class mail rates (Presorted Standard Mail rate), as long as the publication is permitted based on all other criteria set forth in this policy **and the policies applicable to the inmate's housing status.**
- e. Inmates are permitted to receive donated publications, with the following stipulations:
 - (1) **the publication** must be **received** from **an** original source;
 - (2) **the publication** must be specifically addressed to an individual inmate; and
 - (3) **the publication must be inspected, reviewed, and be permissible based on all other criteria set forth in this procedures manual.**
- f. **NOTE:** Donated publications may also be accepted for common inmate use/reference. Publications donated to a facility must be forwarded to the Librarian or the Facility Chaplaincy Program Director (FCPD) as appropriate, upon receiving security clearance and IPRC approval, when necessary. **The Librarian or FCPD, as appropriate, shall determine whether to accept the donation based upon available library space and whether the publication enhances the library's offerings or is merely cumulative or supplemental to existing resources.**

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⁴ 4-4490

⁵ 4-4490

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- g. If a publication or photograph that is otherwise permitted to be possessed by an inmate contains content that may potentially violate any of the criteria set forth in **Subsection E.3.** below, the Mailroom Supervisor, School Principal, Librarian, **or other Department staff** shall forward these publications to the IPRC, along with an **Incoming Publication Review Form (Attachment 3-A)**.⁶
- h. If a publication contains a free sample item (lotion, perfume, etc.), the Facility Manager/designee shall review the item to determine if it shall be permitted into the facility. If it is determined that the item is not to be permitted into the facility, it is to be removed from the publication and the publication is to be delivered to the inmate.
- i. An inmate may receive more than one copy of a publication only with special approval of the IPRC. **Approval may be sought by submitting a DC-135A to the IPRC.**
- j. Upon transfer, publications/photographs approved at one facility **will** be permitted in another facility **unless there is a change in circumstances (for example, but not limited to, the addition of a publication to the Department’s Reviewed Publication List)**. The IPRC at the receiving facility will review any publications/photographs **to determine whether any such changed circumstances exist.**
- k. Upon receipt of mail sent at less than First or Second Class Rate, the mail inspector shall verify that the stamp specifically states “Presorted Standard Mail” and if the words “Presorted Standard Mail” are not printed on the mail, it shall be processed as regular incoming mail.
- l. If the words “Presorted Standard Mail” are marked on the item, the mail inspector shall determine if the item meets the definition of a publication as **set forth** in the Glossary of Terms. If the criteria for a publication **is** met, **the item** shall be accepted and processed in accordance with **Subsection E.2. below**, regardless of the postal rate at which it was mailed. If the item has a “Presorted Standard Mail Stamp,” but does not meet the criteria for a publication, delivery will be refused.

2. **Initial** Review Process

- a. **Within ten working days of receipt of written or printed material referred to it, the IPRC shall determine whether such material is a publication and, if so, whether such material will be permitted or denied. Material that is determined to not meet the definition of a publication shall be returned to the mailroom for processing under this procedures manual.**
- b. **The content criteria listed in Subsection E.3. below apply to the review of all publications, including photographs. The review begins by determining whether the publication appears on the Department’s Reviewed Publication List. If not, the procedures set forth in Subsection E.2.c. below apply. If the publication**

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appears on the Department's Reviewed Publication List, the procedures set forth in Subsection E.2.d. below apply.

- c. **When a facility IPRC reviews and denies a publication that does not appear on the Department's Reviewed Publication List:**
- (1) **the IPRC must complete the Notice of Incoming Publication Denial Form (Attachment 3-B) by entering the following:**
 - (a) **publication name, if known, or a brief description of the publication;**
 - (b) **date of the publication;**
 - (c) **publisher's name and complete address; and**
 - (d) **reason(s) that the publication was denied, including page numbers.**
 - (2) **the IPRC must, within two working days of a decision to deny a publication:**
 - (a) **provide the Notice of Incoming Publication Denial Form to the inmate to whom the publication was addressed; and**
 - (b) **email a copy of the completed form to the Office of Policy, Grants, and Legislative Affairs.**
 - (3) **The Office of Policy, Grants, and Legislative Affairs shall, within seven working days of receipt of the completed Notice of Incoming Publication Denial Form, notify the publisher of the denial of the publication by forwarding a copy of the Notice of Incoming Publication Denial Form. Duplicate notification shall not be required for a single issue of a publication or for a publication appearing on the Department's Reviewed Publication List.**
- d. **When the IPRC determines that the publication appears on the Department's Reviewed Publication List, the publication shall not be reviewed for compliance with the criteria set forth in Subsection E.3 below. Instead, the publication shall be permitted, denied, or otherwise treated as set forth in the Department's Reviewed Publication List, PROVIDED THAT it also is compliant with the provisions of this procedures manual other than Subsection E.3. below. When a publication that appears on the Department's Reviewed Publication List is denied:**

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- (1) ***the IPRC shall within two working days:***
 - (a) ***complete Section 1 of the Notice of Incoming Publication Denial Form; and***
 - (b) ***provide a copy of the completed Notice of Incoming Publication Denial Form to the inmate.***
- (2) ***duplicate notification shall not be required for a single issue of a publication or for a publication appearing on the Department's Reviewed Publication List.***

3. Criteria

a. **General**

- (1) A request for and receipt of any publication or photograph may be disapproved when the publication or photograph contains content considered to pose a potential threat to security, contains nudity, explicit sexual materials, or obscene material as ***set forth*** in **Subsection E.3.c. below**.
- (2) No publication shall be prohibited solely on the basis that the publication is critical of penal facilities in general, of a particular facility, an official of the Department or of a correctional or penological practice in this or in any other jurisdiction.
- (3) Recognized original source textbooks in chemistry, physics, or the social sciences, shall be permitted as long as these publications adhere to the criteria outlined below.
- (4) Any publication that contains one or more sections dealing with prohibited topics must be disapproved in its entirety. If a publication is disapproved because of a section(s) dealing with prohibited topics, facility staff may ***not*** alter the publication by removing the prohibited section(s) in an attempt to make the publication acceptable. ***The publisher may alter the publication by removing the prohibited section(s), republishing the publication, and resending it to the inmate. Any resubmitted publication shall be reviewed as though it was being submitted for the first time.***

b. Security Issues

Written narratives/language and/or visual/graphic representations/images containing any of the following content shall be denied:

- (1) information regarding the manufacture of explosives, incendiaries, weapons, escape devices, or other contraband;

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- (2) instruction regarding the ingredients or manufacture of poisons, drugs, or intoxicating beverages;
 - (3) writings **which**:
 - (a) **advocate violence**;
 - (b) **advocate insurrection or guerrilla warfare against the government or any of its facilities**;
 - (c) **create a danger within the context of the correctional facility**; or
 - (d) **advocate, assist, or are evidence of criminal activity or facility misconduct**.
 - (4) racially inflammatory material, material that could cause a threat to the inmates, staff, **or** security of the facility, material that encourages or promotes the belief that one group of persons is superior over another, or describes rites or ceremonies that include instruments that could be used to cause harm to one's self or others, except if this material is contained in religious material or a sacred text in which case it must be reviewed using the criteria set forth in **Subsection E.3.d. below**; or
 - (5) maps, road atlas, etc. that would facilitate the planning of an escape or criminal activity or would pose a security threat to the Department, its staff, contractors, volunteers, or facilities.
- c. Publications (**including** photographs) Containing Obscene Material, Explicit Sexual Material, and Nudity
- (1) Except as provided below, correspondence, publications and/or photographs containing explicit sexual material, (**other than in narrative form**) and/or nudity as defined in the Glossary of Terms, are prohibited from entering a facility or being possessed within a facility. **Obscene material is illegal and will not be permitted under any circumstances.**
 - (2) Correspondence **and** publications, containing nudity **or** explicit sexual material (**other than in narrative form**), as defined in the Glossary of Terms may be permitted if the material has artistic, educational, or medical value. The below listed considerations **will** guide the Department in determining whether to permit nudity, explicit sexual material, or obscene material:
 - (a) Is the material in question contained in a publication that regularly features sexually explicit content intended to raise levels of sexual arousal or to provide sexual gratification, or both? If so, the publication **will** be denied for inmate possession.

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- (b) Is it likely that the content in question was published or provided with the primary intention to raise levels of sexual arousal or to provide sexual gratification, or both? If so, the publication or content will be denied for inmate possession.

d. Religious Materials and Sacred Texts

- (1) Religious material and sacred texts that contain otherwise prohibited material shall be prohibited if they explicitly direct followers to act violently or encourage violent acts against **Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI) populations**, persons of other races, nationalities, religions, etc. or direct the use of instruments to cause harm to one's self or others. Religious material and sacred texts that only promote a sincerely held belief, as opposed to directing followers to act on **that belief**, shall be permitted.
- (2) The below listed considerations will guide the Department in determining whether religious material and sacred texts are to be permitted or prohibited:
 - (a) Does the religious material or sacred text contain racially inflammatory material or encourage or promote the belief that one group of persons is superior over another or contain descriptions of religious rites **or ceremonies** that may include instruments that could be used to harm one's self or others?
 - i. If not, the religious material or sacred text must be permitted.
 - ii. If so, does the religious material or sacred text explicitly direct followers to act violently or encourage violent acts against persons of other races or nationalities, etc. or to use instruments to harm ones self or others? **Only religious material or a sacred text that explicitly directs followers to act violently or encourages violent acts can be prohibited.**
 - (b) The IPRC may consult with the FCPD in evaluating religious publications and sacred texts. **The Secretary's Office of Inmate Grievances and Appeals (SOIGA)** shall consult with the Religious Accommodation Review Committee in reviewing appeals from the denial of religious publications or sacred texts.

4. **Review** Process

a. **Inmate Grievance Review**

- (1) **An inmate may seek review of a decision denying a publication by filing a grievance in accordance with Department policy DC-ADM 804, "Inmate Grievance System." If a timely grievance is not filed, the publication will be destroyed after 30 working days unless;**

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- (a) ***the inmate submits a cash slip for the costs of shipping the publication out of the Department to a specific person within 15 working days; or***
- (b) ***the publisher submits a timely permitted appeal under Subsection E. 4 below.***

NOTE: The only publications that appear on the Department's Reviewed Publication List are those that have received final content review either as the result of an inmate grievance or a publisher appeal. The Department will not re-review the content of publications on the Department's Reviewed Publication List. Grievances regarding publications that appear on the Department's Reviewed Publication List, therefore, are limited to whether the Department's Reviewed Publication List was applied correctly (e.g., the denied publication does not actually appear on the Department's Reviewed Publication List) or that a Pennsylvania court or a United States District Court within Pennsylvania (Eastern, Middle, or Western District), the United States Court of Appeals for the Third Circuit, or the United States Supreme Court has entered an order requiring that the specific publication be permitted in a prison housing persons convicted of a felony.

- b. ***The Facility Grievance Coordinator shall notify the Mailroom Supervisor when a grievance concerning the denial of a publication is filed and shall inform the Mailroom Supervisor of the final decision when the grievance process, including any appeals, is completed.***
 - (1) ***The Mailroom Supervisor shall hold the publication until the grievance process, including grievance appeals, if any, is completed.***
 - (2) ***SOIGA shall refer grievance appeals challenging the denial of a publication for content reasons to the Office of Policy, Grants, and Legislative Affairs for review.***
 - (3) ***The Office of Policy, Grants, and Legislative Affairs shall review all content-based appeals, advise SOIGA of its determination, return the grievance and related material to SOIGA, and add the final appeal decision to the Department's Reviewed Publication List.***
 - (4) ***SOIGA shall notify the inmate of the final appeal decision.***
- c. ***Publisher Appeals***
 - (1) ***A publisher may seek review of a decision denying a publication by filing an appeal to the Office of Policy, Grants, and Legislative Affairs within 15 working days of the date on the Notice of Incoming Publication Denial Form. An appeal may be in the form of a letter setting forth the reasons the publisher believes the decision to deny the publication was erroneous and***

**DC-ADM 803, Inmate Mail and Incoming Publications Procedures Manual
Section 3 – Handling and Distribution of Mail**

must include a copy of the Incoming Publication Denial Form the publisher received. The Office of Policy, Grants, and Legislative Affairs may, in its sole discretion, accept an untimely appeal for demonstrated good cause. Multiple appeals by the publisher of the same issue of a publication are prohibited and shall be disregarded.

- (2) The Office of Policy, Grants, and Legislative Affairs shall notify the Mailroom Supervisor at the inmate addressee's facility that the publisher's timely appeal has been received.**
- (3) The Mailroom Supervisor shall hold the publication until the grievance process, including grievance appeals, if any, is completed.**
- (4) The Office of Policy, Grants, and Legislative Affairs shall decide a publisher's appeal within 15 working days of receipt. The Office of Policy, Grants, and Legislative Affairs shall forward its decision concerning a publisher's permitted appeal to the publisher and the Mailroom Supervisor at the inmate addressee's facility, and add the publication to the Department's Reviewed Publication List.**
- (5) The Office of Policy, Grants, and Legislative Affairs decision concerning a publisher's appeal is final.**

d. Post-Appeal Procedures

Upon completion of the grievance process or the publisher's appeal, or both, the publication shall be processed in accordance with the final decision.

**DC-ADM 803, Inmate Mail and Incoming Publications Procedures Manual
Glossary of Terms**

Approved Inmate Name – The name under which the inmate is committed to the Department and/or a name change that is in accordance with Department policy 11.5.1, “**Records Office Operations.**”

Cashier’s Check – a check drawn by a bank and payable from the bank’s own funds.

Catalogue – Printed material the primary purpose of which can reasonably be regarded as offering anything other than a publication for sale, loan, or exchange.

Charge Card Account– A charge card account is a financial arrangement with a merchant or company requiring the account holder to pay any balance on the account in full at the end of each month, and is subject to interest charges by the merchant or company (e.g., American Express or a Sears Charge Card.)

Content – *As used in this policy, content refers to the substance of the writings, the words and what they mean, and also includes nude photos.*

Contraband – An item that an inmate is prohibited from possessing or an item that an inmate is permitted to possess, but which has been altered or is being used for something other than its intended purpose.

Control Number – A number obtained through the Department’s Office of Chief Counsel authorizing an attorney or court to use the Department’s system designed to ensure facility security as well as essential, confidential attorney-client communications.

Court – *The (1) Pennsylvania Supreme Court, including any justice of such court, the Prothonotary, and any division of such court, (2) Pennsylvania Superior Court and Commonwealth Court of Pennsylvania, including any judge of such courts, clerk of courts and Prothonotary of such courts and any division of such courts; (3) any court of common pleas, including any judge, clerk of courts, or Prothonotary of such court as well as the domestic relations and children and youth services divisions of such courts; (4) the Philadelphia Municipal Court, including any judge, Prothonotary or clerk of courts of such court; (5) any magisterial district court or magisterial district judge; (6) any federal district court, including any judge, clerk of court or marshal of such court; (7) any United States Court of Appeals, including any judge, clerk, marshal or division of such court; (8) the United States Supreme Court, including any justice, clerk, marshal or division of such court; (9) any analogous court of another state, including any judge, justice, division, office or official of such court; and (10) any administrative court or judge of any federal or state agency.*

Credit Card Account– A credit card account is a financial arrangement with a bank or company allowing the account holder to maintain a balance on the account at the end of the month, and is subject to interest charges by the merchant or company (e.g., Visa or MasterCard).

Department Reviewed Publication List – A list maintained by the Department and consisting of the name, date, publisher, and review discussion for all publications that have received final review after any appeal of a Facility Manager’s decision to prohibit the publication.

**DC-ADM 803, Inmate Mail and Incoming Publications Procedures Manual
Glossary of Terms**

Electronic Mail (E-Mail) – Mail that is sent electronically using a vendor contracted by the Department.

Explicit Sexual Material – Any book, pamphlet, magazine, printed matter, sound recording, explicit and detailed verbal description, narrative account, or other material of the following: (1) sexual conduct, which means acts of masturbation, homosexuality, sexual intercourse, sexual bestiality, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if the person is a female, breast; (2) sadomasochistic abuse, which means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed; (3) sexual excitement, which means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

Facility Mail Distribution System – The system used to deliver and pick-up mail from inmates within the facility.

Facility Manager – The Superintendent of a State Correctional Facility or the Motivational Boot Camp, Director of a Community Corrections Center, or Director of the Training Academy.

Incoming Publications Review Committee (IPRC) – A committee of at least three facility personnel selected by the Facility Manager/designee at each facility that reviews incoming mail that may contain prohibited content. ***One member of the IPRC must be a librarian, teacher or school principal.***

Indigent Inmate – An inmate for whom the combined balances of his/her facility account and any other accounts are \$10 or less at all times during the 30 days preceding the date on which the inmate submits a request to the person designated by the Facility Manager/designee. An inmate who refuses available work/school although he/she is physically able and not precluded from work/school by virtue of his/her housing status, is not indigent for the purposes of this policy and is not eligible for free stationery or to anticipate for postage. An inmate who is self-confined may also be considered as refusing available work although physically able as determined by the Program Review Committee (PRC). Any inmate who has funds in another account, which if deposited in his/her facility account would bring his/her balance to more than \$10, is not indigent. Any inmate who has not made a good faith effort to manage his/her money so as to be able to pay the necessary costs of litigation himself/herself is not indigent.

Investment Account – ***any brokerage, individual retirement, or similar account through which a licensed investment professional buys and sells stocks, bonds, mutual funds and other investments on the account holder's behalf for a fee.***

Nipple – The protrusion from the human breast including all of the areola.

Non-Content – ***Non-Content means matters other than the content such as contraband, e.g. glue, perfume, unpaid envelopes, Sovereign Citizen, and UCC materials.***

***DC-ADM 803, Inmate Mail and Incoming Publications Procedures Manual
Glossary of Terms***

Nudity – The showing of the human male or female genitals, pubic area, or anus with less than a fully opaque covering or the showing of the female nipple with less than a fully opaque covering, or the depiction of covered male genitals in a discernible turgid state.

Obscene Material – Any book, photograph, pamphlet, magazine, printed matter, sound recording, explicit and detailed verbal description, narrative account or other material is considered obscene if one of the following applies:

1. an average person applying contemporary community standards would find that the subject matter taken as a whole appeals to the prurient interest; and
2. the subject matter depicts or describes in a patently offensive way; (a) ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, anal or oral sodomy and sexual bestiality, (b) patently offensive representations or descriptions of masturbation or excretory functions, (c) in a sexual context, flagellation or torture upon a nude person or one clad only in undergarments, a mask or bizarre costume or fettered, bound or otherwise restrained, and/or (d) lewd exhibition of the genitals.

Original Source – *a publisher, bookstore, book club, distributor or department store, or commercial distributor of a publication or a duly formulated not-for-profit organization that distributes the specific publication in connection with its religious, charitable, or public service purpose.*

Photograph – *a picture produced by photography.*

Presorted Standard Mail – Mail that usually consists of sales flyers, form letters, or other printed pieces that are generally identical in content but do not meet the criteria of a publications as defined in the definition of publication. This mail is specifically identified with a United States Postal Service Presorted Standard Mail Stamp.

Privileged Correspondence

1. Outgoing Privileged Correspondence: Outgoing mail addressed to the following persons:
 - a. Elected or appointed federal, state, or local officials: One to whom the inmate has petitioned to redress a grievance. The term elected or appointed official includes, but is not limited to, the courts, the President of the United States, the Governor, the Attorney General, and a District Attorney. The term elected or appointed official does not include the Veterans Administration, Bureau of Motor Vehicles, Social Security Administration, Department of Education, the Pennsylvania Prison Society, the Pennsylvania Board of Probation and Parole (PBPP), or agencies to whom the inmate has applied for benefits.
 - b. Attorney: Any person authorized under applicable law to practice law and who is engaged in an attorney/client relationship with the inmate addressee. All correspondence to attorneys must be clearly marked with the attorney's full name, or the full name and address of the law firm, printed on the envelope for it to be considered privileged.

***DC-ADM 803, Inmate Mail and Incoming Publications Procedures Manual
Glossary of Terms***

2. Incoming Privileged Correspondence: Mail from an inmate's attorney that is either hand-delivered to the facility or identified with a control number issued to the sender by the Department's Office of Chief Counsel or mail from a court.

Prurient – Obsessively interested in sexual matters; marked by an obsessive interest in sex; arousing or appealing to an obsessive interest in sex.

Public Mail Systems – The United States Postal Service and private carriers who serve the public with systems to move pieces of mail from one location to another.

Publication – (1) A photograph; and/or (2) Printed material that is circulated among the public for conveying information, including, but not limited to, newspapers, magazines, hardcover or paperback books, catalogues, pamphlets, and newsletters regardless of Postal Rate.

Savings Account - *a passbook or statement savings account, certificate of deposit account, or Tuition Assistance Plan with a financial institution that is licensed by the federal government or a state government.*

Storage Space – The amount of space an inmate is permitted to use to store his/her property as permitted by the policy applicable to the inmate's housing unit.

Undeliverable Mail – Mail that cannot be identified for delivery to a specific addressee.

FAQ - New Procedures

General

Why was the DOC on a statewide lockdown?

Pennsylvania Department of Corrections Secretary John Wetzel announced the immediate lockdown of all state correctional institutions on August 29, 2018, because of reports of multiple staff members being sickened by unknown substances over the past few weeks. The DOC is enacting new policies to protect staff, inmates, volunteers and everyone who visit all DOC facilities. You can view staff and inmate exposure incidents on the [Drug Elimination Efforts \(/Initiatives/Pages/drug-elimination-efforts.aspx\)](#) page.

How are these dangerous, unknown substances getting into facilities?

There are seven points of entry for contraband to enter the facility: mail, legal mail, visits, staff, books/publications, drones and inmates returning to the DOC after having been released. It's speculated that the majority of contraband enters the facilities through the mail.

Mail

What is the DOC doing to stop unknown substances and contraband from entering its facilities through incoming mail?

The DOC is implementing several immediate policy and program changes in order to keep staff and inmates safe from the exposure of these dangerous substances. Effective immediately all incoming public mail will be processed through an offsite third party vendor called Smart Communications.

How will Smart Communications stop contraband from entering facilities through the mail?

Smart Communications offers a program called MailGuard[®] which provides an off-site virtual mailroom that receives non-legal inmate postal mail on behalf of the correctional agency. That mail is then processed into a searchable electronic document which is then transmitted electronically to the correctional facility where it will be printed and delivered to the inmate by hand. MailGuard[®] creates a 100% contraband elimination for all non-legal mail.

How will the new mail system work?

All inmate **non-legal** mail must be sent to the following address:

Smart Communications/PA DOC

Inmate Name/Inmate Number

Institution

PO Box 33028

St Petersburg, Florida 33733

Smart communications will receive the mail, scan all mail (including letters, greeting cards, photos and news clippings) and forward the electronic mail to the SCI where the inmate is located. Envelopes will also be scanned and included with your mail. SCI will print mail and deliver to inmate.

What is considered non-legal mail?

Non-legal mail is all regular incoming correspondence between inmates, family and friends. All legal mail will be sent directly to the appropriate SCI for handling/processing. More information is provided below.

What mail will not be processed by Smart Communications?

Legal mail will be sent directly to the appropriate SCI and processed pursuant to the new legal mail policy. Publications will follow new procedures and should not be purchased and shipped to any SCI by third parties.

What happens if Smart Communications finds contraband or is exposed to these dangerous substances?

Smart Communications will search the mail for contraband and drugs and notify the institution of any finds. Staff are fully equipped with protective precautions and gear to keep them safe from dangerous exposures.

What return address should inmates use on outgoing mail?

Inmates should use the Smart Communications address with their name and inmate number as used for the incoming address.

Smart Communications/PADOC
Joe Jones/AB1234
SCI Camp Hill
PO Box 33028
St Petersburg FL 33733

Correctional Industries will be producing new envelopes. If you use an old envelope, please make the corrections

When will inmates receive their mail?

Following a 60 to 90 day transition period, Smart Communications will forward all mail within 24 hours of receipt, six days per week. During the initial transition period, it may take up to five days for mail to arrive at the SCI's.

What do they do with the original mail?

All original mail will be retained for a period of 45 days unless otherwise instructed by DOC. After 45 days, original mail will be destroyed.

What happens to the electronic copies?

All scanned mail is uploaded to a database that is organized/sorted by inmate. It is sent to inmates' location six days per week. When the electronic mail reaches the facility, staff can approve, deny or forward mail. Approved mail is printed and delivered to inmates.

How long is the electronic mail saved?

Smart Communications maintains electronic copies for seven years.

What happens if official documents are included in my mail, such as driver's license, social security cards, checks, court orders with raised seals etc.

Smart Communications will forward all official documents to the SCI business office where the inmate is located.

What happens with photos?

Photos will be scanned and are still subject to review by the Incoming Publication Review Committee. Photos are limited to 25 photos per mailing. If a mailing has more than 25 photos, the entire mailing will be returned.

What type of paper will photos be printed on?

Standard copy paper with color.

Will inmates or inmate families be charged with printing the mail?

DOC is printing the mail from Smart Communications at no charge to inmates or their families.

Will photos from outside vendors such as Pre-print or Shutterfly be permitted?

Photos are permitted from vendors but are limited to 25 per mailing. Vendors must send all photos to Smart Communications for processing.


Can photos be returned to sender by Smart Communications?

No. All photos will be destroyed after the 45-day retention unless otherwise instructed by DOC.

Will photos be available on tablets?


Yes. In the near future, photos will be available on tablets.

How will the senders of mail know when the mail is delivered?

Senders of mail who register with [Smart Communications](https://www.mailguardtracker.com/)  (<https://www.mailguardtracker.com/>), can receive alerts when mail arrives at Smart Communication and when it is delivered to or rejected by the DOC.

Case 1:18-cv-02889-JES-FBC Document 1-2 Filed 10/30/18 Page 5 of 12

When mail is being returned to sender will there be any explanation of why it is being returned or where to send it next?

Yes. If you [register to track your mail](https://www.mailguardtracker.com/)  (<https://www.mailguardtracker.com/>), you can see why mail is rejected and receive a digital copy of the mail.


Will this process delay the parole process?

Following the transition period, Smart Communications will process mail within 24 hours. The electronic mail will be pre-sorted by housing unit; thus, reducing time in the SCI mailrooms. Green sheets, home plans and other time sensitive matters will not be delayed.

Will more information be provided?

We will continue to update the FAQs. In addition, Smart Communications is developing FAQs that will be available to inmates and families.

Where can I get more information about Smart Communications?

The Smart Communications website is great resource of information regarding their services <https://smartcommunications.us/2017/07/14/about-us/> 
(<https://smartcommunications.us/2017/07/14/about-us/>).

Legal Mail

How will legal mail be processed?

Legal mail will be opened in front of the inmate and inspected. It will be copied and the inmate will receive a copy. The process will be videotaped with the recording being secured by Smart Communications. The original will be placed in a secured box and be retained for 15 days. If no grievance is filed, the mail will be securely destroyed.

Can we have the legal mail originals destroyed in front of us when we get the copies?

Not at this time. Policy must be followed with document retention.

Are courts being notified or cooperating with DOC in regard to mail delivery stoppage in conjunction with deadline?

Any inmates who claim to have missed a deadline due to the lock-down may file a grievance or submit a request slip and the Office of Chief Counsel will review.

Will Legal mail ultimately be sent to the outside Vendor for processing?

No.

Publications

How can inmates purchase actual books?

Inmates can make a request to purchase any book. The DOC will provide the inmate with the cost of the book. Once the inmate submits a cash slip for the book, the DOC will order the book and have it shipped to the inmate.

How will DOC purchase books?

The DOC will access many avenues to locate books, always keeping a reasonable price as a critical factor.

Are books available on tablets?

By September 18, 2018, more than 8,500 e-books will be available on inmate tablets.

Can family members still order books through publishers?

No. All publications must be purchased through DOC.

Can families purchase a book or subscription for inmates?

We will be reviewing a process in the near future to enable families to purchase books/ subscriptions.

How do inmates request to purchase a book?

1. Inmate selects Publication request icon on kiosk.
2. Inmate includes name of book and author on request icon.
3. This icon is for publication request ONLY. All other requests will be deleted.
4. Central Office receives request and does a search, with price always in mind.
5. Central Office responds to inmate request on kiosk with price of book.
6. Inmate has two business days to submit a special "publication request" cash slip to Business Office for price of book.
7. Upon confirmation of payment Central Office purchases book.
8. Book is shipped to SCI and delivered to inmate.

Are inmates limited to the number of book requests?

Inmates are not limited to the number of books purchased – but must comply with the property limitations set forth in the DC-ADM 815.

Will free or donated books be available?

During a transition period, we will not be accepting donated books for individual inmates; however, we are working on a process that would enable the DOC to accept free books for the general inmate population.

What happens with religious books or outside bible studies?

We will work with Religious Services to develop policy as soon as possible. Volunteers should not be bringing publications into the facility at this time.

What will happen to my current subscription for magazines/ periodicals?

For now, you will continue to receive issues of current subscriptions. If any issue is compromised, it will be confiscated and destroyed. No future subscription orders may be purchased except through the kiosk.

Are there limitations as to what books an inmate can order?

An inmate can request any book; however, it is still subject to content review by the Incoming Publication Review Committee, and content may not violate DC-ADM 803, "[Inmate Mail and Incoming Publications](#)

Will libraries have additional subscriptions to magazines and periodicals?

DOC libraries will consider purchasing additional magazines and periodicals for inmates.

How do I order new subscriptions to magazines and periodicals?

1. Similar to books, inmates must request subscriptions through the publication request icon on the kiosk.
2. Central Office will notify inmate of price.
3. Inmate has two business days to submit a cash slip.
4. Central Office will order subscriptions in bulk.
5. Magazines will be delivered in bulk.
6. The SCI will have list of which inmates paid for subscriptions and will deliver issues directly to inmates.

What will happen to books that had arrived at SCI during lockdown?

All books will be returned to sender.

What will happen to magazines/ newspapers delivered during lockdown?

Magazines and periodicals will be delivered to inmates if they do not violate the DC-ADM 803.

Are publications still being reviewed?

Yes. All publications are still subject to review by the IPRC and must comply with the DC-ADM 803

If inmates do not have a tablet, how can they read books?

All SCIs have libraries. We will continue to increase the number and variety of books offered in the library. Inmates may also purchase books.

Visits

Has the DOC made any procedural changes to the visiting room?

Case 1:18-cv-02090-JE-JEB Document 1-3 Filed 10/30/18 Page 9 of 12
Effective immediately, the DOC is doubling all staffing in the visiting rooms. In addition, the DOC is implementing a 90-day moratorium on photos and access to vending machines.

What will the DOC do after the 90-day moratorium expires?

During this 90-day period the DOC will reevaluate the visiting room procedures.

Are there any repercussions for visitors who violate DOC visiting room procedures?

Visitors who are caught introducing contraband into visiting rooms will receive an indefinite suspension from all DOC facilities.

What about inmates, will they experience repercussions for introducing contraband into a state correctional facility?

Inmates who are in possession of or test positive for drugs will receive a 6-month visit suspension for the first offense, a 12-month visit suspension for the second offense, and an indefinite-to-life visit suspension for the third offense. Suspensions do not include visits from attorneys or Official Visitors.

Will the suspensions apply to inmates who have already tested positive?

No. The suspensions will be in effect for any inmate who tests positive starting November 1, 2018.

What are Official Visitors?

Official Visitors are defined by Title 61 §3512 and include certain government officials, as well as authorized members of the Pennsylvania Prison Society (PPS).

Will any consideration be given for visitors with medical conditions who need to eat?

Visitors with medical conditions can submit a medical accommodation request for review. Email or contact the facility's superintendent's office to make the request.

Will there be a change to allowing one unopened formula bottle to be brought into the visiting room?

Case 1:18-cv-02099-LEJ-EPG Document 1-3 Filed 10/30/18 Page 10 of 12
Current policies for infants will remain in effect, including a jar of baby food in the original unopened jar and up to 3 bottles (bottles must be clear plastic and contain pre-mixed formula or white milk). Please refer to specific SCI for more details.

Will trays be available for inmates (when they return to the block) if visits extend over lunch hour?

Yes. We should provide meals to inmates who missed meal from visits.

Miscellaneous

Will release clothing be permitted to be sent in?

Yes

How will commutation packets be processed?

Inmates will continue to write to the Board of Pardons and pay the fee for an Application for Commutation. The application is mailed to the inmate, but it does not need to be an original document. It will be mailed to Smart Communications for normal processing.

Will inmates continue to receive monthly account transaction statements?

Yes. Inmate account statements, with all transactions, are printed at the SCI monthly. They do not come in through the outside mail or a third party. These statements will continue as usual.

Will additional classes be offered for those attempting to complete programming in time for parole?

No. Classes will resume where they left off. There should not be any delays in parole processing.

How will the new policies affect outside purchases such as music equipment, art supplies or sneakers?

We will be reviewing our approved vendors, but for now there should be no changes.

Yes.

Will there be any changes to the Access packs?

No.

If an inmate is involved in a correspondence course with an outside educational facility how are they to continue to receive the textbooks and materials? Can the materials be direct mailed to the facility?

Yes.

If inmate has permission to marry in the next 90 days, how will photos be taken?

Staff can take a few digital photos and copy them for the inmate.

Can inmates still purchase calendars?

We will work with Correctional Industries to offer calendars through commissary. There will be no outside purchases for calendars other than commissary.

Inmates that are pregnant will they still be allowed to bring pictures back from the hospital of their new baby.

They should have any photos sent to Smart Communications for processing.

(09/10/2018)

Categories:

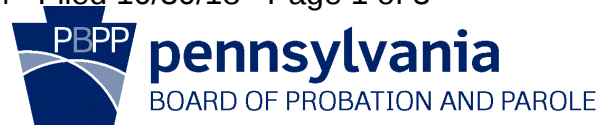
General

Mail

Legal Mail

Publications

Visits



Due to numerous instances of staff and inmate exposure to suspicious substances, the Department of Corrections (DOC) initiated a system-wide lockdown on Wednesday, August 29, 2018. Initiation of this lockdown also cancelled all inmate visits and stopped the processing of all mail to and from facilities. Immediately following the lockdown, the use of personal protective equipment, particularly gloves, was mandatory for all employees and official visitors to institutions. In addition, each institution and parole office provided mandatory training on situational awareness to all employees.

The DOC has identified seven different methods in which drugs may be introduced to the institutions:

1. Mail
2. Legal Mail
3. Visits
4. Staff
5. Books/Publications
6. Drones
7. New Commits

From January – June 2018 the Department saw 2,034 drug incidents involving 1,802 inmates. Of these incidents, 309 involved mail & visitors. Forty percent (40%) of the drugs introduced to State Correctional Institutions (SCI's) are synthetic cannabinoids.

Over the past week, the DOC has begun implementing or expanding the following to combat the introduction of drugs into the facilities:

1. Immediate elimination of mail processing at facilities

Effective immediately, all inmate mail will be sent to a central processing facility where it will be opened, scanned and emailed back to the facilities. Initially, this process will take a few days however, after the initial 90 day transition period, mail will be delivered the day after it has been received. Mail delivery will be expanded to 6 days per week.

Each facility will print the mail and deliver it to the inmates effectively eliminating any possibility of drug introduction through the mail system. Effective immediately, all mail that was collected during the lockdown will be returned to sender – no exceptions.

Effective immediately, all inmate mail should now be shipped to the following address utilizing existing DOC mail rules:

Smart Communications/PADOC
Inmate Name/Inmate Number
Institution
PO Box 33028
St Petersburg FL 33733

Envelopes must include a return address. Photos will be limited to 25 per mailing. Any mailing received with more than 25 photos will be returned to sender.

2. Legal Mail

Legal mail will be copied in a centralized, contained location in front of the inmate by staff wearing protective equipment. A dedicated copier will be used strictly for legal mail and will follow strict cleaning protocol to ensure

that any contamination is contained to a specific area of the institution. The process will be recorded and preserved for a period of 45 days.

3. Visit Room Modifications (90 days)

Effective immediately, the DOC is doubling all staffing in visit rooms. In addition, the DOC is implementing a 90-day moratorium on photos and vending. Drugs are often introduced via photos in the visiting room and drugs are passed between visitor and inmate via food/drink. A moratorium on both photos and food will allow us to stabilize the visiting room and prevent the introduction of contraband through this method. The DOC will reevaluate the visiting room procedures during this 90-day period to determine what the next steps may be.

In addition to the visit room modifications, an enhanced policy on drug introduction by visitors and/or inmates is in process. This policy will provide for stricter punishment for the introduction of drugs through the visiting room as well as for inmates who may use or have possession of drugs within the institution.

There will be an indefinite ban for any visitor caught introducing contraband into visit rooms.

Visit suspensions will be put in place for inmates confirmed in possession of or testing positive for drugs:

1st offense – 6 month suspension

2nd offense – 12 month suspension

3rd offense – indefinite suspension of visits

4. Books & Publications

Effective immediately, the DOC will begin to transition to ebooks coupled with bolstered DOC library system featuring centralized purchasing and ordering process. No books or publications will be shipped directly to an inmate.

Inmates will have access to a “publication request icon” on existing kiosks and all requests will be forwarded to central office for processing once the publication/book has been paid for by a cash slip. Central office will purchase in bulk from various sellers to prohibit the introduction of contraband.

Friends and family may make requests to purchase books for inmates and may pay for those items via an account specifically for this purpose. Once payment has been received, the DOC will order the publication and ship it to the institution where the inmate resides.

5. Expansion of drone detection software and capabilities

The DOC currently has drone detection capabilities at several of our facilities. This software allows for not only the detection but also the tracking of drone activity within the limits of our facilities so that we can identify and combat the introduction of contraband via drones.

6. Enhanced commitment reception protocol

The return of Parole Violators and introduction of new commits is problematic and another way that contraband is introduced into the facilities. A team has been put together to look at this process and enhancements will be forthcoming.

7. Expanded use of body scanners

The DOC is expanding its use of body scanners which have the ability to detect contraband on or within a person. These units have been successfully implemented in both SCI Coal Township and Wernersville Community Corrections Center. It is anticipated that all institutions will receive their scanners within 90 days.

8. Improved Ion Scanners.

The DOC is implementing an enhanced ion scanning technique through the use of Rapiscan. This system is an upgraded version of the existing technology that are within our institutions today. The DOC is purchasing at least two systems per facility. The systems will be placed at ingress points for both staff and visitors as well as within outside service units. This system has already been ordered and all facilities will have them in place over the course of the next 90 days.

9. Drug hotline – 717.728.4743

The DOC has implemented a hotline that anyone (including inmates) can call to report information related to the introduction of drugs or possession of drugs in a SCI by inmates, visitors, or staff members. Callers may remain anonymous but if you wish to speak with an investigator, you must leave your name and inmate number. Messages should provide as much detail as possible so an appropriate and thorough investigation can occur.



POLICY STATEMENT
Commonwealth of Pennsylvania • Department of Corrections

Policy Subject: Inmate Mail and Incoming Publications		Policy Number: DC-ADM 803
Date of Issue: October 3, 2018	Authority: Signature on File John E. Wetzel	Effective Date: October 3, 2018

I. AUTHORITY

The Authority of the Secretary of Corrections to direct the operation of the Department of Corrections is established by Sections 201, 206, 506, and 901-B of the Administrative Code of 1929, 71 P.S. §§61, 66, 186, and 310-1, Act of April 9, 1929, P.L. 177, No. 175, as amended.

II. APPLICABILITY

This policy is applicable to all facilities operated under the jurisdiction of, or conducting business with the Department of Corrections.

III. POLICY

It is the policy of the Department to allow an inmate access to communicate with members of society through the mail system¹ as set forth in this policy and procedures manual, to inspect mail, determine the types of publications allowed, and to review publications intended for inmates. Restrictions shall be related directly to facility order and security, public safety, and obscenity laws and statutes.²

IV. PROCEDURES

All applicable procedures are contained in the procedures manual that accompanies this policy document.

¹ 5-7D-4492

² 5-7D-4487, 5-7D-4488, 5-7D-4490

V. SUSPENSION DURING AN EMERGENCY

In an emergency or extended disruption of normal facility operation, the Secretary/designee may suspend any provision or section of this policy for a specific period.

VI. RIGHTS UNDER THIS POLICY

This policy does not create rights in any person nor should it be interpreted or applied in such a manner as to abridge the rights of any individual. This policy should be interpreted to have sufficient flexibility to be consistent with law and to permit the accomplishment of the purpose(s) of the policies of the Department of Corrections.

VII. RELEASE OF INFORMATION AND DISSEMINATION OF POLICY

A. Release of Information

1. Policy

This policy document is public information and may be released upon request.

2. Confidential Procedures (if applicable)

Confidential procedures for this document, if any, are not public information and may not be released in its entirety or in part, without the approval of the Secretary of Corrections/designee. Confidential procedures may be released to any Department of Corrections employee on an as needed basis.

B. Distribution of Policy

1. General Distribution

The Department of Corrections policy and procedures shall be distributed to the members of the Central Office Executive Staff, all Facility Managers, and Community Corrections Regional Directors on a routine basis. Distribution of confidential procedures to other individuals and/or agencies is subject to the approval of the Secretary of Corrections/designee.

2. Distribution to Staff

It is the responsibility of those individuals receiving policies and procedures, as indicated in the "General Distribution" section above, to ensure that each employee expected or required to perform the necessary procedures/duties is issued a copy of the policy and procedures either in hard copy or via email, whichever is most appropriate.

VIII. SUPERSEDED POLICY AND CROSS REFERENCE

A. Superseded Policy

1. Department Policy

DC-ADM 803, Inmate Mail and Incoming Publications, issued September 16, 2015, by Secretary John E. Wetzel.

2. Facility Policy and Procedures

This document supersedes all facility policy and procedures on this subject.

B. Cross Reference(s)

1. Administrative Manuals

- a. DC-ADM 005, Collection of Inmate Debts
- b. DC-ADM 801, Inmate Discipline
- c. DC-ADM 802, Administrative Custody Procedures
- d. DC-ADM 804, Inmate Grievance System
- e. 6.3.1, Facility Security
- f. 7.3.1, Reentry and Transition
- g. 7.8.1, Inmate Recreational and Therapeutic Activities

2. ACA Standards

- a. Administration of Correctional Agencies: 2-CO-5D-01
- b. Adult Correctional Institutions: 5-3D-4274, 5-3D-4275, 5-3D-4276, 5-4A-4266, 5-7D-4487, 5-7D-4488, 5-7D-4489, 5-7D-4490, 5-7D-4491, 5-7D-4492, 5-7D-4493, 5-7D-4494, 5-7D-4496
- c. Adult Community Residential Services: 4-ACRS-6A-06, 4-ACRS-6A-08, 4-ACRS-6A-09
- d. Correctional Training Academies: None

3. PREA Standards (28 C.F.R.)

115.51



PROCEDURES MANUAL
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Release of Information:

Policy Document: This policy document is public information and may be released upon request.

Procedures Manual: The procedures manual for this policy may be released in its entirety or in part, with the prior approval of the Secretary/designee. Unless prior approval of the Secretary/designee has been obtained, this manual or parts thereof may be released to any Department employee on an as needed basis only.

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Section 1 – Mail Processing Procedures

Section 1 – Mail Processing Procedures

A. Mail Privileges

1. An inmate is permitted to correspond with the public, his/her attorney(s), and public officials.¹
2. There is no limit to the number of correspondents to whom an inmate may send or from whom an inmate may receive mail.²
3. All incoming, non-privileged inmate correspondence must be addressed and sent to the Department's contracted central incoming inmate mail processing center. Mail must be addressed as follows:

Smart Communications/PA DOC
Inmate Name/Inmate Number
Institution Name
P.O. Box 33028
St. Petersburg, FL 33733

Example:

Smart Communications/PA DOC
Joe Jones/AB 1234
SCI Camp Hill
P.O. Box 33028
St. Petersburg, FL 33733

4. All incoming, privileged inmate correspondence must be addressed and sent to the inmate at the address of the institution where he or she is housed.
5. An inmate may not:
 - a. correspond with a current or former inmate, parolee, probationer or co-defendant unless approval is given pursuant to this policy;
 - b. transfer or receive through any means whatsoever, negotiable instruments, money, or items of monetary value to or from any other inmate, former inmate, parolee, probationer, co-defendant, the individual family members of any of the preceding individuals, or victim(s) of the inmate's criminal acts or their immediate family members without the prior written approval of the Facility Manager/designee. Approval granted at one facility shall transfer with the recipient inmate to any other Department facility; however, any approval granted or transferred may be revoked for changed circumstances;

¹ 5-4A-4266, 5-3D-4275, 5-7D-4487, 5-7D-4492

² 5-4A-4266, 5-7D-4487, 5-7D-4488

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NOTE: An inmate shall be permitted to receive cancelled checks, but shall NOT be permitted to receive blank checks, cash advances, vouchers, and/or credit/debit/charge cards from any source.

- c. receive personal checks, cash, or money orders sent through the mail. A personal check, cash, or money order discovered during an inspection shall be treated as contraband and held pending any grievance or appeal concerning it. The permitted contents of the mail shall be scanned and delivered to the inmate in accordance with this policy.

Money orders will only be accepted through the third-party vendor contracted by the Department for this purpose. This service allows funds to be posted to inmate accounts electronically. The sender must follow the vendor's procedures to use the service. Additional information concerning the vendor is available through the Department's website, www.cor.pa.gov. If a family member or friend sends, or has any business, financial entity, or other entity send a financial instrument in an attempt to circumvent the requirement to use the contracted third-party vendor, the financial instrument shall be deemed contraband;

- d. receive any financial instrument including cashier's checks except as part of a legitimate business transaction. If incoming mail contains a permitted cashier's check, the check shall be recorded, indicating the nature of the receipt, the sender, the amount received, and the date.³ A **DC-130B, Cash Transaction Receipt** shall be issued to the inmate for all amounts received. The cashier's check shall be forwarded to the facility Business Manager who shall deposit the money into the inmate's account;
- e. receive official documents such as a driver's license, birth certificate, social security card, welfare card, medical card, etc. Such documents contained in incoming mail shall not be delivered to the inmate, but shall be transferred to a designated safe area or file and maintained by the Department. Department staff shall notify the inmate and his/her counselor of the document being held and forward only the scanned correspondence to the inmate;
- f. correspond with any of the following individuals unless prior written approval was provided by the Facility Manager/designee. Approval granted at one facility shall transfer with the recipient inmate to any other Department facility; however, any approval granted or transferred may be revoked for changed circumstances;
 - (1) a current or former employee;
 - (2) a current or former volunteer;
 - (3) a current or former contract employee;

³ 5-7D-4494

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- (4) a victim(s) of the inmate's criminal acts (the Office of the Victim Advocate [OVA] will provide verification that an individual is a victim of the inmate's criminal acts, at the request of the Facility Manager/designee); or
 - (5) the immediate family members of any of the preceding individuals.
- g. send or receive correspondence containing threatening or obscene materials or correspondence containing criminal solicitations or furthering a criminal plan or misconduct offense;
 - h. use the facility address to fraudulently identify himself/herself as an employee, agent, or representative of the facility; for example:
 - Theodore Smith, Paralegal
 - SCI Mahanoy
 - 301 Morea Road
 - Frackville, PA 17932
 - i. write to an individual who has informed the Department, in writing, that he/she does not wish to receive correspondence from the inmate or anyone who has an active Protection from Abuse Order (PFA) against the inmate that prohibits such contact. This restriction is not to be interpreted to infringe on the right of an inmate to correspond with a public official with regard to the performance of his/her official duty or to file pleadings in a court. When the inmate is given a "no contact" restriction, the name of the individual who requested the restriction and the date the restriction was issued to the inmate shall be entered by the Unit Manager/designee into the Unit Management System under the "Security Concerns" tab;
 - j. correspond with any prohibited party directed through a third party;
 - k. correspond with a public official using an address different than the official's business address;
 - l. send battery-operated greeting cards;
 - m. send or receive "bill-me-later" or free gift transactions;
 - n. receive correspondence or homemade artwork that has any item affixed to it (excluding a mailing label that is affixed to the envelope) with glue or other types of adhesives, including tape;
 - o. receive correspondence that exceeds the following size specifications: 12.5 inches wide or 25.5 inches long; and
 - p. receive more than 25 photographs per individual item of correspondence.

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6. When an inmate wishes to correspond with an inmate at another facility (whether under the Department's jurisdiction or the jurisdiction of any other state, county, or federal agency or contractor) or a juvenile in a detention center:
 - a. neither inmate can be in disciplinary custody status;
 - b. each inmate must submit a request to the counselor at his/her current facility; the request must include the name and number of the other inmate, the relationship between them, the reason for the correspondence, and the name of the facility where the other inmate is located;
 - c. the counselor will verify the relationship between the inmates, and prepare and circulate a **DC-46, Vote Sheet**;
 - d. if approved, the counselor will prepare a **Correspondence Between Inmates Form (Attachment 1-A)**, obtain the Facility Manager/designee's signature, and forward it to the Facility Manager/designee of the other facility;
 - e. the Facility Manager/designee at the recipient inmate's facility shall review the **Correspondence Between Inmates Form** and determine whether to approve the request to correspond;
 - f. if both Facility Managers/designees approve the request, a copy of the **Correspondence Between Inmates Form** shall be placed in the **DC-14, Counselor File**, a notation shall be made in the automated Inmate Cumulative Adjustment Record (ICAR), and the mailroom supervisors at both facilities shall be notified; and, when inmates have been permitted to correspond because of a pending legal case, the Mailroom Supervisor shall verify the status of the case with the Department's Office of Chief Counsel every six months. Unless permission to correspond has been otherwise terminated, the Mailroom Supervisor shall notify every staff member who was designated to receive a copy of the **Correspondence Between Inmates Form** approving the correspondence when the case has been completed and the permission to correspond will be terminated;
 - g. the inmates must refrain from mentioning facility security, staff, or inmates in their communication;
 - h. the facility may read both incoming and outgoing correspondence between the inmates, to ensure compliance with the conditions of these procedures;
 - i. permission to correspond with an inmate at a facility under the Department's jurisdiction or the jurisdiction of any other state, county, or federal agency or contractor or a juvenile in a detention center shall be reviewed by the Facility Manager/designee at least every six months and may be withdrawn at any time; and
 - j. permission to correspond granted at one facility shall transfer with the inmate to any other Department facility; however, any approval granted or transferred may be

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revoked for changed circumstances and affected parties shall be notified by the Facility Manager/designee.

7. Each inmate will be permitted, without cost, to mail eight, one-ounce, first-class letters per month.⁴
8. There will be no limit on the number of letters that an inmate may send at his/her own expense.⁵ Envelopes are available for purchase through Commissary. If an inmate has purchased envelopes prior to a transfer to another facility, the inmate shall be allowed a one-for-one exchange of envelopes upon arrival at the new facility.
9. No threatening, obscene, or if the inmate is under the age of 18, explicit sexual material, pictorial nudity, contraband, material containing a criminal solicitation, or material describing or in furtherance of a criminal plan or misconduct offense may be contained in the mail or placed on the envelope. If opened, such mail/envelope shall be returned to the sender at the inmate's expense (except that material which cannot be mailed legally will not be returned) or disposed of at the inmate's expense.
10. All outgoing mail shall include on the envelope the fully-approved inmate name, Department inmate number, and return address printed in a legible, undisguised manner on the upper, left-hand corner of the envelope. An envelope not bearing this information will be opened and returned to the inmate, if identified. Non-privileged correspondence shall include the central incoming inmate mail processing center return address as listed above. Privileged correspondence will have the facility mailing address with the inmate's name and number as the return address. **EXCEPTION:** To preserve the confidentiality of inmates reporting allegations of sexual assault to the Pennsylvania State Police (PSP), an envelope addressed to: BCI/PREA Coordinator, 1800 Elmerton Avenue, Harrisburg, PA 17110 is not required to include the inmate name or Department number. **[28 C.F.R. §115.51(b)]** PSP has asked that an inmate reporting an allegation of sexual assault include his or her name and inmate number within the body of the letter contained inside the envelope so that PSP can identify the person making the allegation and communicate with them as PSP deems necessary.
11. All outgoing correspondence will be stamped "Inmate Mail – PA. DEPT. OF CORRECTIONS."
12. The inmate shall seal and place all outgoing correspondence in the collection boxes provided in each housing unit and/or other designated locations.
13. Photographs containing obscenity, explicit sexual material, or nudity, as specified in **Section 2** of this procedures manual are prohibited.
14. No inmate may possess and the Department will not disseminate to any inmate obscene material in any form.

⁵ 5-7D-4489, 4-ACRS-6A-06

⁶ 5-7D-4488

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15. In accordance with 18 Pa. C.S.A. §5903, the Department will not disseminate obscene, nude, or explicit sexual materials in any form to an inmate under the age of 18. Any inmate under the age of 18 found to be in possession of obscene or explicit sexual materials will be subject to a misconduct in accordance with Department policy **DC-ADM 801, “Inmate Discipline.”**

B. General Incoming Inmate Mail Procedures

1. Inmate mail will be refused for the following reasons:
 - a. non-privileged inmate correspondence that is sent to a prison instead of to the Department’s contracted central mail processing center;
 - b. mail that has postage due;
 - c. mail that does not contain a return address consisting of the sender’s name, street address, including a suite or apartment number as applicable, city, and state (the official state abbreviation may be used). Correspondence from a foreign country must also include the name of the foreign country; and
 - d. incoming mail for an inmate that is not addressed with the approved inmate name and Department number as reflected on the inmate roster. If an inmate has been transferred or released, mail shall be forwarded, unopened, to the new address, if known, for 60 days.⁶ If no forwarding address is available, mail shall be refused. It is the responsibility of the inmate to notify correspondents of a change of address.
2. When the delivery of incoming correspondence has been accepted and any item other than a publication contained therein is determined to be prohibited:
 - a. the copies of permitted contents shall be delivered to the inmate. The mailroom staff shall complete and send to the inmate a **Notice of Unacceptable Correspondence Form (Attachment 1-B)**. A copy of the **Notice of Unacceptable Correspondence Form** shall be sent to the Security Office at the facility and to the sender of the correspondence, if identifiable;
 - b. the inmate may file a grievance from the **Notice of Unacceptable Correspondence Form** within 15 working days of the date the Notice is sent. The inmate shall use the **DC-804 Part 1, Official Inmate Grievance Form**; the sender shall appeal by writing a letter addressed to the Facility Manager, containing a copy of **the Notice of Unacceptable Correspondence Form** and clearly stating the reason the sender believes the correspondence should have been accepted;
 - c. the grievance shall be assigned for processing pursuant to the procedures in **Department policy DC-ADM 804, “Inmate Grievance System,”** which are available

⁶ 5-7D-4496, 4-ACRS-6A-09

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online at the Department's official website www.cor.pa.gov and the appeal process set forth therein shall govern all subsequent levels of challenge;

- d. upon receipt of the grievance, the grievance officer shall issue notification to the mailroom, security office, or contracted mail processing center, as appropriate, identifying the prohibited item at issue and directing that the item(s) be held pending the outcome of the grievance or related processes;
 - e. the mailroom, security office, or contracted mail processing center shall hold the prohibited items pending further notification from the grievance officer; and
 - f. upon resolution of the matter, the grievance officer will inform the mailroom, security office, or contracted mail processing center of the outcome:
 - (1) if the item is permitted, the mailroom, security office, or contracted mail processing center shall cause copies of the prohibited/item(s) to be delivered to the inmate; and
 - (2) if the item is not permitted, the inmate (if known) will be permitted to mail it out of the facility at the inmate's expense. If the inmate refuses to pay for the item to be mailed, Department staff will destroy the item(s), hold the correspondence item(s) for investigation, as evidence, or otherwise properly dispose of it. Material that cannot be legally mailed will not be sent.
3. Incoming correspondence may contain copies of internet pages, news clippings, articles, print-outs, or material from social networking, social media, or internet sites if such material otherwise complies with the provisions of this procedures manual. The content of internet pages, news clippings, articles, print-outs, or material from social networking, social media, or internet sites will be reviewed by Department staff. Content that may violate the criteria set forth in **Section 2** of this procedures manual below shall be forwarded to and reviewed by the Inmate Publication Review Committee (IPRC).
4. Incoming correspondence may contain photographs subject to the following limitations:
- a. no more than 25 photographs may be contained in any mailing. Any item of correspondence that has more than 25 photographs will be returned in its entirety;
 - b. the content of photographs will be reviewed by Department staff. Content that may violate the criteria set forth in **Section 2** of this procedures manual below shall be forwarded to and reviewed by the IPRC. The IPRC shall issue a **Notice of Photo Denial Form (Attachment 1-C)** with notice to the sender and the inmate in all cases where photographs are denied based upon content;
 - c. nothing in this policy shall be interpreted to permit an inmate to possess more photographs than permitted by the policy governing the inmate's housing status; and

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- d. as with all incoming correspondence, photographs will be copied and the copies will be provided to the inmate. Original photographs will not be returned or preserved. Rather, original photographs are subject to the retention and disposal cycle for incoming non-privileged correspondence provided in this procedures manual.
5. Incoming inmate mail will be processed Monday through Friday excluding state/federal holidays as outlined below. Mail will be scanned by the Department's contracted vendor and an electronic copy will be made available to the appropriate facility. Facility staff will print the correspondence and deliver it to the inmate. A reasonable effort shall be made to ensure that incoming inmate mail is delivered to the inmate on the same day that it is received from the Department's contracted incoming inmate mail processor, excluding weekends and holidays, unless the mail contains content requiring review by the IPRC in accordance with **Section 2** of this procedures manual or the mail is being held for investigative purposes.
 - a. An inmate who wishes to have his/her mail held by the mailroom while on an Authorized Temporary Absence (ATA) must submit a written notice to the mailroom supervisor. A **DC-135A, Inmate's Request to Staff Member** may be used for this purpose.
 - b. Any inmate who receives a letter of a disturbing nature should bring the matter to the attention of the housing unit officer and make arrangements to discuss the problem with his/her unit manager or counselor.

C. Incoming Inmate Mail Procedures – Non-Privileged Mail

1. All incoming inmate mail (other than privileged) must be sent to the Department's contracted incoming inmate mail processor as stated in **Subsection A. above**.
2. Contracted mail processing center staff will open and scan each piece of incoming inmate correspondence. Staff will not read incoming correspondence unless authorized to do so under the applicable provisions of this policy or as specifically directed by authorized Department staff. Correspondence from the Department's Office of Chief Counsel is not privileged and is to be opened in accordance with this process.
3. Contracted mail processing center staff will electronically transmit the scanned copies of the inmate incoming mail to appropriate facility staff.
4. The contracted mail processing center shall retain the following records related to the processing of inmate incoming mail in accordance with the following periods:
 - a. the original incoming correspondence will be securely maintained for 45 days and then securely destroyed unless otherwise directed by the Department; and
 - b. scanned electronic copies of the incoming correspondence will be securely maintained for 45 days and then securely destroyed unless otherwise directed by the Department.

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5. Facility staff will print and deliver paper copies of the incoming inmate correspondence to the inmate recipients. Staff will not read incoming correspondence unless authorized to do so under the applicable provisions of this policy or as specifically directed by authorized Department staff.
6. Incoming correspondence, other than privileged correspondence, may be read or reviewed upon the written order of the Facility Manager/designee. Incoming correspondence, other than privileged correspondence, may be reproduced upon written order of the Executive Deputy Secretary for Institutional Operations (EDSI)/Regional Deputy Secretary only when there is reason to believe that the security of the facility may be threatened, that this directive is being violated, that there is evidence of criminal activity or of a misconduct offense, or in connection with an investigation being conducted by the Bureau of Investigations and Intelligence (BII).⁷
7. The Facility Manager/designee shall review the status of the facility's mail monitoring on a monthly basis. In cases where the Regional Deputy Secretary's approval is required, a request must be made in writing every 60 days for continued reproduction of correspondence. This request should also include a brief update of the ongoing investigation.
 - a. The facility Security Office shall submit a quarterly report to the Regional Deputy Secretary outlining all inmate correspondence being monitored/reproduced on the **Inmate Correspondence Tracking Form (Attachment 1-D)**.
 - b. If approved by the EDSI/Regional Deputy Secretary, the Chief of Security/BII/designee will notify the Facility Manager/designee and the Intelligence Gathering Captain to commence monitoring and/or photocopying the correspondence. A request must be made in accordance with **Subsection C.6. above** to continue reproduction of correspondence.
8. Federal, State, and local income tax filing documents shall not be delivered to an inmate, as these may be used to file fraudulent tax returns. If an inmate has a legitimate need to file a tax return, he/she may request the proper forms from the Unit Management Team.
9. When a refund check from the Pennsylvania Treasury Department, another state, the Internal Revenue Service (IRS), a foreign country, or a county or municipality of any of the preceding is received, mailroom staff shall notify the Intelligence Gathering Captain/Security Lieutenant. If issued by the Commonwealth, these checks are identifiable by the address information that shows through the window on the envelope, REVREFUND, is printed and visible. For a United States or Commonwealth check, the Intelligence Gathering Captain/Security Lieutenant shall contact the PA Department of Revenue/IRS Office of Criminal Tax Investigations and advise them of the inmate's name, social security number, and check amount. The PA Department of Revenue and/or IRS representative will advise the Security Office as to the legitimacy of the

⁷ 5-7D-4491, 4-ACRS-6A-08

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refund. The Office of Chief Counsel shall be contacted if tax refund checks are received from other sources.

10. The contracted mail processing staff shall forward to the Department the original of any official documents such as a driver's license, birth certificate, social security card, welfare card, medical card, etc., received in the incoming inmate correspondence. Such documents shall not be delivered to the inmate, but shall be transferred to a designated safe, area, or file and maintained by the Department at the appropriate Facility business office. Department staff shall notify the inmate and his/her counselor of the document being held.
11. When any documentation concerning Uniform Commercial Code (UCC) filings, the redemptive process, "Acceptance for Value" presentments, or documents indicating copyright or attempted copyright of a name is received, mail processing staff shall notify the Intelligence Captain/Security Lieutenant. A **Notice of Unacceptable Correspondence Form** shall be completed and sent to the inmate and the sender, if identifiable. The inmate shall have 15 working days from the date of the notice to provide, in writing, to the Intelligence Captain/Security Lieutenant an explanation of the legal basis or purpose for his/her possession of the material. In the alternative, the inmate may choose to file a grievance under Department policy **DC-ADM 804** explaining the legal basis or purpose for his/her possession of the material. Any and all documents or materials referenced in this paragraph shall be confiscated and considered contraband, whether processed through the mailroom or found anywhere else within the facility.
12. Account Statements
 - a. Inmate Savings/Investment Accounts
 - (1) An inmate is permitted to maintain a savings account that was opened prior to his/her incarceration. An inmate who maintains such an account may receive copies of account statements and correspondence from the financial institution holding the account, provided that he or she informs the facility's mailroom supervisor of the name of the financial institution.
 - (2) An inmate is permitted to open one savings account during his or her incarceration. An inmate who maintains such an account may receive copies of account statements and correspondence from the financial institution holding the account, provided that he or she informs the facility's mailroom supervisor of the name of the financial institution.
 - (3) An inmate is permitted to open one investment account during his or her incarceration. An inmate who maintains such an account may receive copies of account statements and correspondence from the licensed investment professional through whom the account is established, provided that he or she informs the facility's mailroom supervisor of the name of the licensed financial institution or licensed investment professional through whom the account is established.

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- (4) All savings/investment account passbooks and account identification (e.g., account identification card, check cashing, etc.) shall be held by the facility Business Office until the inmate is released.
 - (5) Savings/investment account statements and deposit and withdrawal slips may be held by the inmate with his/her personal property, unless there is reason to believe that there is a threat to facility security or criminal activity, in which case, the materials will be considered contraband.
- b. Inmate Checking Accounts
- (1) An inmate with a checking account opened prior to his/her incarceration shall not use the account while incarcerated.
 - (2) The opening of a checking account while incarcerated is prohibited.
- c. Inmate Credit or Charge Account or Debit Account
- (1) An inmate with a charge card, credit card account, or debit account opened prior to his/her incarceration shall not charge to the account or make expenditures from the account while incarcerated.
 - (2) The opening of a charge card, credit card account, or debit account while incarcerated is prohibited.
 - (3) “Blank checks” or “cash advance vouchers” associated with charge and credit card accounts or debit accounts are considered contraband, and shall not be provided to inmates.
 - (4) Credit or charge account or debit account solicitations and applications are considered contraband, and shall not be provided to inmates.
 - (5) Account statements for inmates who opened a charge card, credit card account, or debit account prior to incarceration, may be held by the inmate with his/her personal property, unless there is reason to believe that there is a threat to facility security or criminal activity, in which case, the materials will be considered contraband and confiscated by staff.
- d. Other Investments
- (1) An inmate is prohibited from acquiring or transferring stocks, bonds, or any other form of security or investment other than as set forth in **Subsection A.8.a.(3) above**.
 - (2) An inmate who wishes to transfer stocks, bonds, or any other form of security or investment acquired prior to his or her incarceration must place the security under the control of a third party who is neither an inmate nor a parolee.

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D. Incoming Inmate Mail Procedures – Privileged Mail

1. Processing of incoming privileged correspondence.
 - a. Incoming privileged correspondence will be opened and inspected for contraband in the presence of the inmate to whom it is addressed.
 - b. The incoming privileged correspondence will then be photocopied in the presence of the inmate and the photocopies of the contents shall be delivered to the inmate.
 - c. Incoming privileged correspondence delivered to an inmate as described above is to be noted on the **Legal Mail Log (Attachment 1-E)**. The inmate must sign the **Legal Mail Log** for the mail or the fact that the inmate refused to sign shall be noted.
 - d. The original incoming privileged correspondence (including the original envelope or packaging) will be sealed in a manila or opaque envelope(s) in the presence of the inmate. The envelope(s) shall be secured with evidence tape.
 - e. The envelope(s) will be marked with the inmate's name and number and the sealed envelope(s) will be deposited into a locked/secured receptacle as described in this paragraph to be securely and confidentially destroyed.
 - (1) Receptacle. Each facility will be responsible to procure the services of a vendor for the confidential destruction of the sealed incoming inmate privileged correspondence. The facility should contact the Central Office business office to ensure that its contract for such services is appropriate. The vendor shall provide a locked/secured receptacle. Only the vendor shall have the ability to unlock/access the receptacle.
 - (2) In the event that an inmate files a timely request necessitating access to the original privileged correspondence, Department staff will request that the vendor access the receptacle and provide the requested sealed correspondence to Department staff. The correspondence will then be opened in the presence of the inmate in accordance with the procedures for processing incoming privileged mail as outlined in this subsection. If the inmate requests that the original privileged correspondence be preserved pursuant to a grievance, the original privileged correspondence will be retrieved as described above and maintained in the security office evidence locker with a chain of custody log. It shall not be opened outside of the presence of the inmate.
 - (3) The original incoming privileged correspondence will be securely maintained for 45 days and then securely destroyed by the contracted vendor unless otherwise directed by the Department, pursuant to a timely request from an inmate to access or preserve his/her original privileged correspondence.
 - f. The processing of incoming privileged mail as described in this subsection shall be video recorded. The video recording shall record the activity of Department staff and

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the inmate; it shall not record the contents of the privileged correspondence. Video records will follow the same retention and destruction cycle as the privileged correspondence.

2. If upon opening the envelope in the presence of the inmate, the staff member, without reading the contents, notices that the envelope contains absolutely no legal material (e.g., contains only a publication readily available to the public with no notations from counsel), the staff member shall not issue the contents to the inmate and shall complete a **DC-121, Part 3, Employee Report of Incident**, in accordance with Department policy **6.3.1, “Facility Security.”** The report shall include: the contents that were deemed not to be legal material; the name and Department number of the inmate who received the mail; and the name and address of the person who sent the mail. The Facility Manager/designee shall forward a copy of the staff member’s report to the Office of Chief Counsel and the Central Office Security Division for review and tracking.
3. Incoming privileged correspondence may be read upon the written approval of the Secretary/designee when there is reason to believe that there is a threat to facility security or criminal activity.
4. In cases where the Secretary’s approval to read incoming privileged correspondence is required, a request must be made in writing every 30 days for continued reproduction of correspondence. This request should also include a brief update of the ongoing investigation.

E. General Outgoing Inmate Mail Procedures

1. Outgoing mail placed in housing unit collection boxes or other designated locations shall be collected each day, Monday through Friday, excluding state/federal holidays. A reasonable effort shall be made to ensure that such mail is delivered to the U.S. Postal Service on the same day.
2. Outgoing mail shall NOT be placed in the lock-boxes designated for inmate grievances and/or **DC-135A, Inmate’s Request to Staff Member** forms.
3. The inmate will be notified when outgoing mail is being held.⁸

F. Outgoing Inmate Correspondence Procedures – Non-Privileged Correspondence

1. The Facility Manager/designee may authorize the opening and reading of outgoing correspondence other than privileged correspondence only when there is reason to believe that the security of the facility may be threatened, that this directive is being violated, there is evidence of criminal activity or of a misconduct offense, or in connection with an investigation being conducted by the BII.⁹

⁸ 5-7D-4491

⁹ 5-7D-4491, 4-ACRS-6A-08

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2. Outgoing correspondence other than privileged correspondence may be reproduced upon written approval of the Regional Deputy Secretary only when there is reason to believe that the security of the facility may be threatened, this directive is being violated, there is evidence of criminal activity or of a misconduct offense, or in connection with an investigation being conducted by the BII. If the request to reproduce the correspondence originated with BII or the Central Office Chief of Security, the Chief of Security/BII/designee will notify the Facility Manager/designee and the Intelligence Gathering Captain to commence monitoring and/or photocopying the correspondence upon approval of the EDSI/Regional Deputy Secretary. A request must be made in accordance with **Subsection A.2 above** to continue reproduction of correspondence.
3. The facility Security Office shall submit a quarterly report to the EDSI/Regional Deputy Secretary outlining all inmate correspondence being monitored/reproduced on the **Inmate Correspondence Tracking Form**.

G. Outgoing Privileged Correspondence¹⁰

1. Outgoing privileged correspondence will not be opened, read, censored, or reproduced outside the presence of the inmate, except under the following conditions:
 - a. the Facility Manager/designee may request, in writing, the opening, reading, censoring, and/or reproducing of outgoing privileged correspondence outside the inmate's presence and transmit the request to the Secretary/designee and set forth the reasons for the request; and
 - b. the Secretary/designee may grant permission to open, read, censor, and/or reproduce outgoing privileged correspondence outside of the inmate's presence only when there is reason to believe there is a threat to facility security or criminal activity including, but not limited to, the following:
 - (1) any information relating to a possible escape;
 - (2) the introduction of weapons, drugs, money, or other contraband that presents a clear threat to the security of the facility;
 - (3) any information relating to a possible prison disturbance or other activity that presents a clear threat to the security of the facility; and
 - (4) any information relating to other criminal activity; specifics of the suspected activity must be provided.
2. A log shall be kept of instances where outgoing privileged correspondence is opened, read, censored and/or reproduced, and the inmate shall be notified unless such notification would impede an investigation of a threat to facility security including a misconduct offense or suspected criminal activity. The inmate shall be notified that

¹⁰ 5-7D-4492

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his/her mail was opened, read, censored, and/or reproduced at the completion of the investigation.

H. Electronic Mail (Email)

1. All inmate emails are monitored by a software program designed to alert staff if an email contains inappropriate content. The email system contains disclaimers to advise all users that the content of the communications are subject to monitoring. The email system is not designed or intended to be used to facilitate privileged communication. Privileged communications should be made through the inmate telephone, regular mail, or visiting processes.
2. Facility mailroom staff shall forward any email that contains inappropriate content to the facility Security Office for review.
3. The facility Security Office shall review the email content for threats to the security of the facility, evidence of criminal activity, or any violations of this procedures manual.
4. If the facility Security Office has determined that the email is not a threat to the security of the facility, evidence of criminal activity, or in violation of this procedures manual, it will be returned to the mailroom to be delivered to the inmate.
5. Email may be read and reproduced by the facility Security Office, the Central Office Security Office, and/or the BII.
6. Any inappropriate email will be rejected with a notice to the sender stating:

The referenced message was rejected as containing inappropriate content. If you wish to appeal the rejection you must send a written appeal to the Facility Manager within 15 working days of this message. Further information is available in Department policy DC-ADM 803, Section 2, which can be found at www.cor.pa.gov.

I. Presorted Standard Mail

Magazines and newspapers sent by Presorted Standard Mail will be accepted and reviewed according to the Department's policies and procedures.

J. Certified or Registered Mail

1. Each facility shall establish procedures in cooperation with the local Postmaster for the processing of certified and registered mail.
2. The inmate is responsible for determining whether mail is to be sent via certified or registered mail.

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3. Unless otherwise provided in this procedures manual, the inmate must have funds available in his/her account and an approved cash slip for such postage payment in order to send mail certified or registered.

K. Stationery, Pen, and Postage for Indigent Inmates

Upon written request, an indigent inmate, as defined in the Glossary of Terms, shall be provided with stationery and a pen, and shall be able to anticipate the cost for postage to file papers necessary for the good faith pursuit of legal remedies.¹¹

1. No-Cost Stationery and Pens

- a. An inmate may submit a **DC-135A** for no-cost stationery to the Facility Business Manager/designee. The request shall contain:
 - (1) the date of the request;
 - (2) whether a pen is needed;
 - (3) the current balance in his/her inmate facility account, if known; and
 - (4) the name of the court in which the case is pending, the case/docket number, the caption/title of the case, and type of case.
- b. The Business Manager/designee shall review the information contained in the **DC-135A**, and verify that the inmate has insufficient funds to purchase the needed material.
- c. The Business Manager/designee shall respond to the request within five working days of receipt.
- d. Upon approval, the inmate shall be provided free of charge:
 - (1) a pen of the type permitted under the policy and rules governing the inmate's housing unit; and
 - (2) a packet of 50 sheets of clean 8 ½" x 11" paper. If the quantity of paper proves to be insufficient, the inmate may submit a request for one more additional packet per month.

2. Postage and Copying

- a. Anticipated Postage

¹¹ 5-3D-4274, 5-3D-4276, 4-ACRS-6A-06

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- (1) An indigent inmate may anticipate on his/her account, postage for legal mail, to include exhaustion of grievances, and copying charges up to \$10 per month.¹² Under no circumstances, shall the Business Manager/designee approve requests in excess of \$10 per month. An inmate is responsible for managing his/her funds and monthly postage allowance to meet his/her legal needs.
- (2) The Business Manager/designee shall respond to a request to anticipate postage within five working days of receipt.
- (3) After all deductions are taken in accordance with Department policy **DC-ADM 005, “Collection of Inmate Debts”** any money received in an inmate’s account shall be used to satisfy the postage debt and copying fees.

b. Postage Limitations

An indigent inmate will be permitted to anticipate the deposit of funds into his/her account for regular first-class postage only except that:

- (1) a “Petition for Review” to respondents and filed in the Commonwealth Court is the only legal document required to be served by certified mail. An inmate may anticipate funds to file and serve a Petition for Review by certified mail and may also anticipate funds to include a return receipt for the certified mail if the inmate chooses to do so;
- (2) an inmate may not be permitted to anticipate the deposit of funds into his/her account to mail documents in any case in which he/she is not a party;
- (3) any misuse of postage and incomplete or false requests shall be grounds for disapproval of any further anticipation for postage and for discipline; and
- (4) the inmate may seek review of any decision regarding this Section as outlined in Department policy **DC-ADM 804**.

L. Inmates Who Regularly Use Names Different from the Name on the Commitment Form

1. An inmate who has made a permanent legal change in his/her name, so that it differs from the commitment name, may submit a request to the Facility Manager for permission to use the new name for limited purposes. This request must include the reason(s) why the inmate wishes to use the new name.
2. The Facility Manager shall review and grant permission for limited use of the approved name if the name was changed for legitimate reasons. Legitimate reasons shall include changes because of change in gender, marital status, religious reasons, and ethnic identification. Only permanent name changes will be approved. Multiple changes will not be honored.

¹² 4-ACRS-6A-06

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3. The Facility Manager shall notify the inmate of his/her decision on the request to use the new approved inmate name. If the request is approved, the Facility Manager shall inform the inmate in writing of the permitted uses of the newly approved inmate name. The Facility Manager shall advise the inmate that the newly approved inmate name may not be used to mislead or commit fraud and that abuse of the guidelines established for this procedure may result in withdrawal of approval to use the newly approved inmate name. If this request is disapproved, the Facility Manager shall explain the reasons for disapproval.
4. The facility is not required to permit an inmate to use a new name, which has not been approved by these procedures.
5. The newly approved inmate name shall be added to the inmate's records as an AKA (also known as). No Department records will be changed absent a court order specifically directing that the records be changed. If such an order is issued, it shall be referred to the Office of Chief Counsel for review. This type of change will not be handled pursuant to the procedures established here. A court order authorizing and ordering a change of name does not automatically mandate changes in existing records.
6. When an inmate changes his/her name, the Records Office shall notify the Office of Victim Advocate (OVA) and the Parole Supervisor at the facility.
7. The inmate must continue to respond when addressed by his/her commitment name and to sign the commitment name for all purposes except those listed below.
 - a. A visitor may identify the inmate he/she wishes to visit by using the newly approved inmate name.
 - b. The inmate may execute a **DC-155, Power of Attorney** authorizing the endorsement of checks in the newly approved inmate name. A notation shall be made on the second form indicating this form does not supersede the **DC-155** under the commitment name, but is only additional authorization.
 - c. After the execution of the new **DC-155** the inmate may receive deposits to his or her inmate account using the newly approved inmate name.
 - d. It is the inmate's responsibility to advise any person who wishes to use the newly approved inmate name for the purposes described above that he/she must, whenever using the newly approved inmate name, also provide other data; inmate number and commitment name, so that the facility can identify the inmate. A visitor, correspondence, or publication that does not present or contain data sufficient to identify the inmate may be disapproved.
 - e. It is the inmate's responsibility to change his/her name on his/her social security card using the procedures required by the Social Security Administration (SSA) (refer to Department policy **7.3.1, "Reentry and Transition"**). The Department has been informed that a new card will be issued with the inmate's original social security

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number. A new number is not issued for a name change. The inmate will have to send the original Court Order that grants the legal name change with the application for name change. Photocopies or notarized copies of documents are not accepted.

8. An inmate shall be issued and charged for the replacement ID card in accordance with Department policy **6.3.1** when he or she has been authorized to use a newly approved inmate name.
9. The inmate shall be charged \$10 for a new fingerprint card that is required for a name change.
10. Abuse by the inmate of any of these guidelines shall be treated as disobedience of a direct order, and may be grounds for revocation of permission to use the newly approved inmate name, and for disciplinary action.
11. An inmate may seek review of a decision pursuant to these procedures by filing an inmate grievance under Department policy **DC-ADM 804**.

M. Inmate Organization Correspondence

1. Only approved inmate organizations as defined by Department policy **7.8.1, “Inmate Recreational and Therapeutic Activities”** may send and receive mail.
2. Payment of postage is the responsibility of the inmate organization.
3. All incoming and outgoing inmate organization correspondence must be reviewed and approved by the facility staff coordinator for the organization.
4. All outgoing correspondence must be reviewed by the staff coordinator for the organization to ensure compliance with Department policies.
5. Outgoing correspondence must be sealed and delivered to the mailroom by the staff coordinator.
6. An inmate organization may not send mail to an inmate of any federal, state, or county prison or of any juvenile detention center.

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Section 2 – Publications

Section 2 – Publications

Section 2 is under review and will be published shortly. In the interim, the following content standards and processes remain in effect.

A. Incoming Publications¹

1. Criteria

a. General

- (1) A request for and receipt of any publication or photograph may be disapproved when the publication or photograph contains content considered to pose a potential threat to security, contains nudity, explicit sexual materials, or obscene material as set forth in **Subsection A.1.c. below**.
- (2) No publication shall be prohibited solely on the basis that the publication is critical of penal facilities in general, of a particular facility, an official of the Department or of a correctional or penological practice in this or in any other jurisdiction.
- (3) Recognized original source textbooks in chemistry, physics, or the social sciences, shall be permitted as long as these publications adhere to the criteria outlined below.
- (4) Any publication that contains one or more sections dealing with prohibited topics must be disapproved in its entirety. If a publication is disapproved because of a section(s) dealing with prohibited topics, facility staff may not alter the publication by removing the prohibited section(s) in an attempt to make the publication acceptable. The publisher may alter the publication by removing the prohibited section(s), republishing the publication, and resending it to the inmate. Any resubmitted publication shall be reviewed as though it was being submitted for the first time.

b. Security Issues

Written narratives/language and/or visual/graphic representations/images containing any of the following content shall be denied:

- (1) information regarding the manufacture of explosives, incendiaries, weapons, escape devices, or other contraband;
- (2) instruction regarding the ingredients or manufacture of poisons, drugs, or intoxicating beverages;

¹ 5-7D-4490

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Section 2 – Publications

- (3) writings which:
 - (a) advocate violence;
 - (b) advocate insurrection or guerrilla warfare against the government or any of its facilities;
 - (c) create a danger within the context of the correctional facility; or
 - (d) advocate, assist, or are evidence of criminal activity or facility misconduct.
 - (4) racially inflammatory material, material that could cause a threat to the inmates, staff, or security of the facility, material that encourages or promotes the belief that one group of persons is superior over another, or describes rites or ceremonies that include instruments that could be used to cause harm to one's self or others, except if this material is contained in religious material or a sacred text in which case it must be reviewed using the criteria set forth in **Subsection A.1.d. below**; or
 - (5) maps, road atlas, etc. that would facilitate the planning of an escape or criminal activity or would pose a security threat to the Department, its staff, contractors, volunteers, or facilities.
- c. Publications and Photographs Containing Obscene Material, Explicit Sexual Material, and Nudity
- (1) Except as provided below, correspondence, publications and/or photographs containing explicit sexual material (other than in narrative form), and/or nudity as defined in the Glossary of Terms, are prohibited from entering a facility or being possessed within a facility. Obscene material is illegal and will not be permitted under any circumstances.
 - (2) Correspondence and publications, containing nudity or explicit sexual material (other than in narrative form), as defined in the Glossary of Terms may be permitted if the material has artistic, educational, or medical value. The below listed considerations will guide the Department in determining whether to permit nudity, explicit sexual material, or obscene material:
 - (a) Is the material in question contained in a publication that regularly features sexually explicit content intended to raise levels of sexual arousal or to provide sexual gratification, or both? If so, the publication will be denied for inmate possession.
 - (b) Is it likely that the content in question was published or provided with the primary intention to raise levels of sexual arousal or to provide sexual gratification, or both? If so, the publication or content will be denied for inmate possession.

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d. Religious Materials and Sacred Texts

- (1) Religious material and sacred texts that contain otherwise prohibited material shall be prohibited if they explicitly direct followers to act violently or encourage violent acts against Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI) populations, persons of other races, nationalities, religions, etc. or direct the use of instruments to cause harm to one's self or others. Religious material and sacred texts that only promote a sincerely held belief, as opposed to directing followers to act on that belief, shall be permitted.
- (2) The below listed considerations will guide the Department in determining whether religious material and sacred texts are to be permitted or prohibited:
 - (a) Does the religious material or sacred text contain racially inflammatory material or encourage or promote the belief that one group of persons is superior over another or contain descriptions of religious rites or ceremonies that may include instruments that could be used to harm one's self or others?
 - i. If not, the religious material or sacred text must be permitted.
 - ii. If so, does the religious material or sacred text explicitly direct followers to act violently or encourage violent acts against persons of other races or nationalities, etc. or to use instruments to harm ones self or others? Only religious material or a sacred text that explicitly directs followers to act violently or encourages violent acts can be prohibited.
 - (b) The Incoming Publication Reivew Committee (IPRC) may consult with the Facility Chaplaincy Program Director (FCPD) in evaluating religious publications and sacred texts. The Secretary's Office of Inmate Grievances and Appeals (SOIGA) shall consult with the Religious Accommodation Review Committee in reviewing appeals from the denial of religious publications or sacred texts.

2. Review Process

a. Inmate Grievance Review

- (1) An inmate may seek review of a decision denying a publication by filing a grievance in accordance with Department policy **DC-ADM 804, "Inmate Grievance System."** If a timely grievance is not filed, the publication will be destroyed after 30 working days unless:
 - (a) the inmate submits a cash slip for the costs of shipping the publication out of the Department to a specific person within 15 working days; or

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- (b) the publisher submits a timely permitted appeal under **Subsection A.4. below.**

NOTE: The only publications that appear on the Department's Reviewed Publication List are those that have received final content review either as the result of an inmate grievance or a publisher appeal. The Department will not re-review the content of publications on the Department's Reviewed Publication List. Grievances regarding publications that appear on the Department's Reviewed Publication List, therefore, are limited to whether the Department's Reviewed Publication List was applied correctly (e.g., the denied publication does not actually appear on the Department's Reviewed Publication List) or that a Pennsylvania court or a United States District Court within Pennsylvania (Eastern, Middle, or Western District), the United States Court of Appeals for the Third Circuit, or the United States Supreme Court has entered an order requiring that the specific publication be permitted in a prison housing persons convicted of a felony.

- b. The Facility Grievance Coordinator shall notify the Mailroom Supervisor when a grievance concerning the denial of a publication is filed and shall inform the Mailroom Supervisor of the final decision when the grievance process, including any appeals, is completed.
- (1) The Mailroom Supervisor shall hold the publication until the grievance process, including grievance appeals, if any, is completed.
 - (2) SOIGA shall refer grievance appeals challenging the denial of a publication for content reasons to the Office of Policy, Grants, and Legislative Affairs for review.
 - (3) The Office of Policy, Grants, and Legislative Affairs shall review all content-based appeals, advise SOIGA of its determination, return the grievance and related material to SOIGA, and add the final appeal decision to the Department's Reviewed Publication List.
 - (4) SOIGA shall notify the inmate of the final appeal decision.
- c. Publisher Appeals
- (1) A publisher may seek review of a decision denying a publication by filing an appeal to the Office of Policy, Grants, and Legislative Affairs within 15 working days of the date on the **Notice of Incoming Publication Denial Form (Attachment 2-B)**. An appeal may be in the form of a letter setting forth the reasons the publisher believes the decision to deny the publication was erroneous and must include a copy of the **Incoming Publication Denial Form** the publisher received. The Office of Policy, Grants, and Legislative Affairs may, in its sole discretion, accept an untimely appeal for demonstrated good cause. Multiple appeals by the publisher of the same issue of a publication are prohibited and shall be disregarded.

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- (2) The Office of Policy, Grants, and Legislative Affairs shall notify the Mailroom Supervisor at the inmate addressee's facility that the publisher's timely appeal has been received.
- (3) The Mailroom Supervisor shall hold the publication until the grievance process, including grievance appeals, if any, is completed.
- (4) The Office of Policy, Grants, and Legislative Affairs shall decide a publisher's appeal within 15 working days of receipt. The Office of Policy, Grants, and Legislative Affairs shall forward its decision concerning a publisher's permitted appeal to the publisher and the Mailroom Supervisor at the inmate addressee's facility, and add the publication to the Department's Reviewed Publication List.
- (5) The Office of Policy, Grants, and Legislative Affairs decision concerning a publisher's appeal is final.

d. Post-Appeal Procedures

Upon completion of the grievance process or the publisher's appeal, or both, the publication shall be processed in accordance with the final decision.

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Approved Inmate Name – The name under which the inmate is committed to the Department and/or a name change that is in accordance with Department policy 11.5.1, “**Records Office Operations.**”

Cashier’s Check – a check drawn by a bank and payable from the bank’s own funds.

Catalogue – Printed material the primary purpose of which can reasonably be regarded as offering anything other than a publication for sale, loan, or exchange.

Charge Card Account – A charge card account is a financial arrangement with a merchant or company requiring the account holder to pay any balance on the account in full at the end of each month, and is subject to interest charges by the merchant or company (e.g., American Express or a Sears Charge Card.)

Content – As used in this policy, content refers to the substance of the writings, the words and what they mean, and also includes nude photos.

Contraband – An item that an inmate is prohibited from possessing or an item that an inmate is permitted to possess, but which has been altered or is being used for something other than its intended purpose.

Control Number – A number obtained through the Department’s Office of Chief Counsel authorizing an attorney or court to use the Department’s system designed to ensure facility security as well as essential, confidential attorney-client communications.

Court – The (1) Pennsylvania Supreme Court, including any justice of such court, the Prothonotary, and any division of such court, (2) Pennsylvania Superior Court and Commonwealth Court of Pennsylvania, including any judge of such courts, clerk of courts and Prothonotary of such courts and any division of such courts; (3) any court of common pleas, including any judge, clerk of courts, or Prothonotary of such court as well as the domestic relations and children and youth services divisions of such courts; (4) the Philadelphia Municipal Court, including any judge, Prothonotary or clerk of courts of such court; (5) any magisterial district court or magisterial district judge; (6) any federal district court, including any judge, clerk of court or marshal of such court; (7) any United States Court of Appeals, including any judge, clerk, marshal or division of such court; (8) the United States Supreme Court, including any justice, clerk, marshal or division of such court; (9) any analogous court of another state, including any judge, justice, division, office or official of such court; and (10) any administrative court or judge of any federal or state agency.

Credit Card Account – A credit card account is a financial arrangement with a bank or company allowing the account holder to maintain a balance on the account at the end of the month, and is subject to interest charges by the merchant or company (e.g., Visa or MasterCard).

Department Reviewed Publication List – A list maintained by the Department consisting of the name, date, publisher, and review discussion for all publications that have received final review after any appeal of a Facility Manager’s decision to prohibit the publication.

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Electronic Mail (Email) – Mail that is sent electronically using a vendor contracted by the Department.

Explicit Sexual Material – Any book, pamphlet, magazine, printed matter, sound recording, explicit and detailed verbal description, narrative account, or other material of the following: (1) sexual conduct, which means acts of masturbation, homosexuality, sexual intercourse, sexual bestiality, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if the person is a female, breast; (2) sadomasochistic abuse, which means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed; (3) sexual excitement, which means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

Facility Mail Distribution System – The system used to deliver and pick-up mail from inmates within the facility.

Facility Manager – The Superintendent of a State Correctional Facility or the Motivational Boot Camp, Director of a Community Corrections Center, or Director of the Training Academy.

Incoming Publications Review Committee (IPRC) – A committee of at least three facility personnel selected by the Facility Manager/designee at each facility that reviews incoming mail that may contain prohibited content. One member of the IPRC must be a librarian, teacher, or school principal.

Indigent Inmate – An inmate for whom the combined balances of his/her facility account and any other accounts are \$10 or less at all times during the 30 days preceding the date on which the inmate submits a request to the person designated by the Facility Manager/designee. An inmate who refuses available work/school although he/she is physically able and not precluded from work/school by virtue of his/her housing status, is not indigent for the purposes of this policy and is not eligible for free stationery or to anticipate for postage. An inmate who is self-confined may also be considered as refusing available work although physically able as determined by the Program Review Committee (PRC). Any inmate who has funds in another account, which if deposited in his/her facility account would bring his/her balance to more than \$10, is not indigent. Any inmate who has not made a good faith effort to manage his/her money so as to be able to pay the necessary costs of litigation himself/herself is not indigent.

Investment Account – Any brokerage, individual retirement, or similar account through which a licensed investment professional buys and sells stocks, bonds, mutual funds, and other investments on the account holder's behalf for a fee.

Nipple – The protrusion from the human breast including all of the areola.

Non-Content – Non-Content means matters other than the content such as contraband, e.g. glue, perfume, unpaid envelopes, Sovereign Citizen, and UCC materials.

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Nudity – The showing of the human male or female genitals, pubic area, or anus with less than a fully opaque covering or the showing of the female nipple with less than a fully opaque covering, or the depiction of covered male genitals in a discernible turgid state.

Obscene Material – Any book, photograph, pamphlet, magazine, printed matter, sound recording, explicit and detailed verbal description, narrative account, or other material is considered obscene if one of the following applies:

1. an average person applying contemporary community standards would find that the subject matter taken as a whole appeals to the prurient interest; and
2. the subject matter depicts or describes in a patently offensive way; (a) ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, anal or oral sodomy and sexual bestiality, (b) patently offensive representations or descriptions of masturbation or excretory functions, (c) in a sexual context, flagellation or torture upon a nude person or one clad only in undergarments, a mask or bizarre costume or fettered, bound or otherwise restrained, and/or (d) lewd exhibition of the genitals.

Original Source – A publisher, bookstore, book club, distributor or department store, or commercial distributor of a publication or a duly formulated not-for-profit organization that distributes the specific publication in connection with its religious, charitable, or public service purpose.

Photograph – A picture produced by photography or a duplicate of such a picture.

Presorted Standard Mail – Mail that usually consists of sales flyers, form letters, or other printed pieces that are generally identical in content, but do not meet the criteria of a publication as defined in the definition of publication. This mail is specifically identified with a United States Postal Service Presorted Standard Mail Stamp.

Privileged Correspondence

1. Outgoing Privileged Correspondence is outgoing inmate mail addressed to the following persons:
 - a. Elected or appointed federal, state, or local officials: One to whom the inmate has petitioned to redress a grievance. The term elected or appointed official includes, but is not limited to: the courts, the President of the United States, the Governor, the Attorney General, and a District Attorney. The term elected or appointed official does not include the Veterans Administration, Bureau of Motor Vehicles, Social Security Administration, Department of Education, the Pennsylvania Prison Society, the Pennsylvania Board of Probation and Parole (PBPP), or agencies to whom the inmate has applied for benefits.
 - b. Attorney: Any person authorized under applicable law to practice law and who is engaged in an attorney/client relationship with the inmate addressee. All correspondence to attorneys must be clearly marked with the attorney's full name, or the full name and address of the law firm, printed on the envelope for it to be considered privileged.

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Glossary of Terms***

2. Incoming Privileged Correspondence is incoming inmate mail as described below:
- a. Mail from an inmate's attorney that is either hand-delivered to the facility by the attorney or delivered through the mail system and identified with a control number issued to the sender by the Department's Office of Chief Counsel.
 - b. Mail from a court.
 - c. Mail from an elected or appointed federal, state, or local official who has sought and obtained a control number issued by the Department's Office of Chief Counsel. **NOTE:** Not all correspondence between an inmate and elected or appointed federal, state, or local official will require privileged correspondence processing. Control numbers will only be issued when the underlying matter involves matters related to a confidential investigation process or similar concerns.

Prurient – Obsessively interested in sexual matters; marked by an obsessive interest in sex; arousing or appealing to an obsessive interest in sex.

Public Mail Systems – The United States Postal Service and private carriers who serve the public with systems to move pieces of mail from one location to another.

Publication – Printed material that is circulated among the public for conveying information, including, but not limited to, newspapers, magazines, hardcover or paperback books, catalogues, pamphlets, and newsletters regardless of Postal Rate.

Savings Account – A passbook or statement savings account, certificate of deposit account, or Tuition Assistance Plan with a financial institution that is licensed by the federal government or a state government.

Storage Space – The amount of space an inmate is permitted to use to store his/her property as permitted by the policy applicable to the inmate's housing unit.

Undeliverable Mail – Mail that cannot be identified for delivery to a specific addressee.