

GENERAL DISTRIBUTION

**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

NUMBER: 503.00

EFFECTIVE DATE: 16 October 2023

**SUBJECT: MAIL PRIVILEGES FOR
INMATES**

POLICY DIRECTIVE

PURPOSE:

To maintain guidelines for incoming and outgoing inmate mail, including guidelines for the monitoring, opening, reviewing, scanning, copying, and disclosure of inmate mail.

REFERENCE:

WV Code §15A-4-7; and *Altizer v. Deeds*, 191 F.3d 540 (1999).

RESPONSIBILITY:

Superintendents are responsible for enacting facility-specific Operational Procedures and ensuring the requirements of this Policy Directive are included in applicable Post Orders.

CANCELLATION:

Any previous written instruction on the subject including DCR Policy Directive 503.00, dated 01 February 2023.

APPLICABILITY:

All adult facilities within the Division of Corrections and Rehabilitation (DCR). This Policy is available for general distribution and is to be made available for inmate review upon the effective date.

DEFINITIONS:

Attorney-Client Mail: Written mail to or from an inmate with his/her attorney of record. Such mail must clearly state “legal mail” on the envelope or must clearly indicate it is from the inmate’s attorney of record.

Attorney of Record: An attorney who has appeared in court and/or signed pleadings or other forms on behalf of the inmate-client.

Contraband: Any item or article which is not specifically authorized in writing by the Commissioner or Superintendent for inmate possession, or an authorized item which has been altered, or which has been obtained from any unauthorized source.

Emergency Situation: For the purposes of this Policy, any significant disruption of normal facility or agency procedure, policy, or activity caused by riot, escape, fire, natural disaster, employee action, or other serious incident.

General Mail: Written communication and letters which are not *privileged* or *attorney-client mail*.

Non-Indigent: An inmate who has five dollars (\$5.00) or more in his/her trustee spending or voluntary savings account at any time during the previous thirty (30) days.

Private Pornography: Photographs, copies, drawings, or other graphic representations which depict a person totally nude or with exposed breasts, genitalia, or buttocks and which has not been published for widespread commercial viewing. This category usually consists of, but is not limited to, nude or semi-nude photographs of an inmate's friend, spouse, or family member, or another person with whom the inmate is or was acquainted.

Privileged Mail: Written mail to or from the courts, counsel (other than the inmate's *Attorney of Record*), officials of the Division of Corrections and Rehabilitation (DCR), the West Virginia Parole Board, or the chief executive officer of other state, county or local government agencies.

POLICY:

- I. The Commissioner or his/her designee is authorized to monitor, open, review, copy, and disclose mail sent to adult inmates of state institutions under his/her control and inmate's outgoing mail, in accordance with state code and the following provisions.
 - A. All inmates shall be notified in writing that their mail may be monitored, opened, reviewed, copied, and disclosed.
 - B. The following notice shall be prominently placed on or immediately near every mail receptacle or other designated area for the collection or delivery of mail.

“ALL INCOMING AND OUTGOING MAIL, EXCEPT ATTORNEY-CLIENT MAIL, MAY BE MONITORED, OPENED, REVIEWED, COPIED AND DISCLOSED.”
 - C. The Commissioner may designate through contractual agreement a third-party vendor to manage (i.e., receive and scan envelopes and contents) the incoming inmate mail

from friends, family and acquaintances. This does not include legal or privileged mail. The vendor will not approve or reject mail content unless the mail is unacceptable for processing.

- D. The Superintendent, acting as the designee of the Commissioner, shall monitor inmates' incoming and outgoing mail. Should the Superintendent designate staff member(s) to monitor mail, notification and authorization shall be in writing, and only those individuals are authorized.
 - E. Only the Commissioner, Superintendent, or those designated shall have access to copies of inmates' mail unless disclosed to an appropriate law enforcement agency, or the West Virginia Intelligence Fusion Center, when disclosure is necessary for the investigation, prevention, or prosecution of a crime or to safeguard the orderly operation of the facility. Disclosure may also be made in civil or administrative proceedings pursuant to an order of a court or administrative tribunal when the disclosure is necessary to safeguard and protect the orderly operation of the facility or to protect persons from physical harm or the threat of physical harm.
 - 1. Copies of all inmate mail disclosed pursuant to the above shall be retained by the facility.
 - 2. The name of the law enforcement officer and law enforcement agency to which any such copies are provided shall be recorded.
 - 3. Unless required otherwise by law, any such records shall be retained for at least three (3) years.
 - F. The inmate whose mail has been copied and disclosed under this section shall be given a copy of that mail when it is determined by the Commissioner or Superintendent not to jeopardize the safe and secure operation of the facility or to be detrimental to an ongoing investigation or administrative action.
 - G. Should an inmate be charged with a criminal offense based, in whole or in part, on the inmate's mail supplied to law enforcement, the inmate's attorney in the criminal matter shall be entitled access to and copies of the inmate's mail in the custody of the Commissioner which are not evidence in or the subject of another criminal investigation.
- II. Correspondence between inmates and their family and friends is encouraged. Inmates may correspond with any person who is not incarcerated and there shall be no limit on the number of correspondents an inmate may have.
- A. All inmate outgoing mail must have "sent from an inmate at a state correctional facility" stamped by staff on the envelope.
 - B. Inmates must include a return address on the face of the envelope, to include his/her name, OID number and the name and full address of the facility.

- C. Each facility shall provide mail receptacles or other designated area for the collection of mail and notify inmates in writing of established collection times.
- D. Every effort shall be made to assure that outgoing mail is received by the U.S. Postal Service on the same day, except as otherwise specified in this Policy concerning security issues. In any event, excluding weekends and holidays or emergency situations, incoming and outgoing letters shall be held for no more than forty-eight (48) hours and packages shall be held no more than seventy-two (72) hours.
- E. Inmates will place outgoing general mail in the mail receptacles sealed or unsealed, which decision will be made by the Superintendent.
- F. **Effective 01 October 2023, all incoming general mail from friends, family and acquaintances will be addressed as shown in the below example. The sender must also include a full return address with complete first and last name (no initials).**

Inmate's first and last name and OID number
Full name of facility (no abbreviations) and WV
P.O. Box 336
Phoenix, MD 21131

- 1. Inmates are responsible for informing their friends, family, and acquaintances of these procedures.
- 2. This does not include: (these items are to be mailed to the inmate's facility)
 - a. Attorney-client or privileged mail.
 - b. Incoming publications (book, booklet, pamphlet, or similar document or a single issue of a magazine, periodical, newsletter, or newspaper).
 - c. Correspondence between incarcerated inmates approved by Superintendents of sending and receiving facilities.
 - d. Government checks, retirement checks, settlement checks, or other legitimate checks of a similar nature.
 - e. Packages containing allowable items as authorized by the Superintendent.
- 3. Incoming mail shall not include photographs. All photographs must be sent via "photo sharing" on the tablets. Mail containing photographs will be returned to sender.
- 4. Upon receipt, the mail will be opened and inspected for contraband. Illegal contraband will be turned over to law enforcement in the jurisdiction of the mail facility.

5. The contents of the envelope and the front and back of the envelope will be scanned and sent electronically to the inmate via his/her tablet.
 6. Incoming mail not adhering to these procedures will be returned to sender or destroyed if no return address is included.
 7. **Incoming mail from friends and family received after 31 October 2023 at any other address (including the facility where the inmate is housed) will be returned to sender. Incoming mail without a return address will be destroyed.**
 8. Inmates are not permitted to receive money orders, cash, checks or other funds from family, friends, or acquaintances by having such funds mailed to them. Mail containing these items will be returned to sender.
- G. Government checks, retirement checks, settlement checks, or other legitimate checks of a similar nature as received directly from government or corporate sources shall be accepted; such checks received on behalf of inmates shall be promptly recorded and credited to the inmate's account with a signed receipt provided to the inmate.
- H. Non-published material, which if contained within a publication would not be permitted, shall not be permitted within any facility. Inmates are not permitted to receive any form of private pornography. Regulations regarding incoming publications (e.g., books, booklets, pamphlets, magazines, periodicals, newsletters, newspapers) are contained in DCR Policy Directive 503.03.
- III. Inmates may correspond with other inmates incarcerated in a correctional facility within the state or any other jurisdiction pursuant to the following:
- A. Mail with or between inmates in restrictive housing (administrative segregation, punitive segregation, special management) is not permitted.
 - B. Inmates must first receive written permission from the Superintendent (or equivalent if from another jurisdiction) of both the sending and receiving facilities.
 - C. Letters will be mailed directly to the receiving facility by placing in the mail receptacles in an unsealed, stamped envelope, and are subject to be read by designated facility employees.
 - D. Letters received at a DCR facility from an inmate of another correctional facility will be opened by a designed facility employee and copied. The receiving inmate will be provided with one (1) black and white copy of the envelope and contents. The envelope and all contents will be held for fourteen (14) calendar days and then destroyed.
 - E. Must only contain written correspondence. No other items are permitted.

- F. Letters must not contain information that is a threat to the life and safety of others or that can be considered disruptive to the orderly administration of any correctional facility.
- IV. Incoming privileged and/or attorney-client mail shall be inspected outside the presence of the intended inmate recipient. It shall not be opened at that time.
- A. If the envelope appears to have been tampered with, contains contraband, or in any other way appears suspicious, the employee processing the mail will notify the Shift Commander or designee.
1. If the Shift Commander or designee agrees that the envelope appears to have been tampered with, contain contraband, or appears suspicious, the mail will be opened in front of the inmate; the inmate will be given a copy of the envelope, and the original envelope will be destroyed (if not retained as evidence).
 2. If the contents of the envelope appear to have been tampered with, contain contraband, or in any other way appear suspicious, the inmate will be given a copy of the contents, and the original contents will be destroyed (if not retained as evidence).
- B. If the envelope does not appear suspect, the mail will be opened in the presence of the inmate to inspect for contraband.
1. If the contents of the envelope appear to have been tampered with, contain contraband, or in any other way appear suspicious, the inmate will be given a copy of the contents, and the original contents will be destroyed (if not retained as evidence).
 2. If the contents do not appear suspect, the inmate will be given the original contents.
- C. Efforts may be made to verify the authenticity of incoming privileged and/or attorney-client mail (e.g., contacting the individual who is alleged to be the sender).
- D. Incoming privileged and/or attorney-client mail may be deemed “suspicious” based on intelligence received by DCR staff and all procedures as outlined above will be followed.
- E. If an inmate is given a copy of the envelope and/or the contents of privileged or attorney-client mail due to the envelope and/or contents appearing suspect or suspicious, the employee shall submit an incident report detailing the reason.
- F. In an effort to further eliminate the introduction of contraband, Superintendents of secure facilities may implement routine procedures to open all incoming privileged and/or attorney-client mail in front of the inmate, copy the envelope and all contents,

provide the copies to the inmate, and destroy the original envelope and contents in front of the inmate (if not retained as evidence).

- G. Incoming privileged and/or attorney-client mail may not be read by employees, unless the Superintendent or designee makes a written recommendation, fully describing the reasons, facts and circumstances upon which the recommendation is based, to the Director of Security Services or designee, that there is reasonable cause to suspect the mail is counterfeit or contains contraband. If such a determination is made:
 - 1. The inmate and sender shall be notified in writing that their mail will be read.
 - 2. The inmate has the right to appeal the reading of his/her mail through the established grievance procedure.
 - 3. The privileged or attorney-client mail shall be opened in the presence of the inmate, unless waived in writing.
- H. When giving incoming privileged and/or attorney-client mail to inmates, the following shall be documented:
 - 1. The inmate's name and OID number.
 - 2. The sender's name and address.
 - 3. The date the mail was received at the facility.
 - 4. The date the mail was given to the inmate.
- V. Outgoing privileged and attorney-client mail cannot be delayed or read, unless there are reasonable grounds to believe that such mail poses a threat to the security, good order, or discipline of the facility; if it is necessary for the protection of the public; or if it is used to facilitate criminal activity. DCR staff may inspect outgoing privileged and attorney-client mail for contraband, in the presence of the sending inmate.
- VI. An indigent inmate will be provided a maximum of ten (10), one-ounce or less, postage-free letters per calendar month.
 - A. This monthly allowance for indigent inmates is not transferrable or cumulative from month to month.
 - B. This limit cannot be exceeded by borrowing from another inmate.
 - C. The cost of mailing letters weighing more than one ounce will be deducted from the total monthly allowance available to the indigent inmate.

- D. An indigent inmate will be provided postage over the amount established for the purpose of mailing privileged or attorney-client mail within reasonable limitations, as determined by the Superintendent.
 - E. Writing materials to include pens, pencils, paper and envelopes will be provided to indigent inmates in reasonable quantities, as determined by the Superintendent.
 - F. Superintendents are not permitted to restrict an inmate's access to postage and/or writing materials for outgoing privileged or attorney-client mail.
- VII. Inmates are permitted to mail approved packages and/or use other services provided by the US Postal Service for a fee such as certified mail, return receipt, tracking, etc. if the inmate sender has the necessary funds in his/her trustee account.
- VIII. Superintendents may authorize inmates to receive packages containing allowable items in the mail.
- IX. First-class letters and packages received at the facility where an inmate was housed after the inmate is released shall be forwarded to the inmate. If no forwarding address is available, first-class letters and packages will be returned to sender.

ATTACHMENT(S):

None

APPROVED SIGNATURE: _____

William K. Marshall III

William K. Marshall III, Commissioner

Oct 16, 2023

Date