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State of Indiana Indiana Department of Correction	Effective Date	Page 1 of	Number
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POLICY AND ADMINISTRATIVE PROCEDURE
Manual of Policies and Procedures

Title
OFFENDER CORRESPONDENCE

Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	Other References (includes but is not limited to)
IC 11-8-2-5(a)(8) IC 11-11-3-2 IC 11-11-3-4 thru 7 IC 11-11-5-4(4) IC 11-11-7-2	00-01-102 00-02-301 02-01-101 02-03-101 02-04-101 03-02-101 04-01-104	ACA: ACI: 4-4266, 4-4279, 4-4285, 4-4446, 4-4487, 4-4488, 4-4489, 4-4490, 4-4491, 4-4492, 4-4493, 4-4494, 4-4495, 4-4496 JTS: 3A-19, 5H-01 to 5H-10 CO: 3C-01, 5D-01

I. PURPOSE:

The purpose of this policy and administrative procedure is to establish a mechanism for offenders to maintain contact with persons in the community through correspondence, printed material and packages in a manner that ensures the safety and security of the persons involved and the facilities.

II. POLICY:

It is the policy of the Department of Correction that offenders shall be permitted to maintain contact with the community and persons in the community through the use of correspondence, printed materials and packages. The Department encourages the maintenance of community ties and relationships through correspondence as a means to enhance the offender's re-integration into the community upon release.

In order to ensure this continued contact the Department shall establish administrative procedures for the sending, receiving, distributing and forwarding of correspondence both to and from offenders in Department facilities. An offender's correspondence shall not be censored, copied, delayed or denied solely on the basis of the sender's or receiver's apparent moral, political, ethical, ethnic or religious values or attitudes, veracity or choice of words.

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III. DEFINITIONS:

For the purpose of this policy and administrative procedure, the following definitions are presented;

A. CENSORSHIP: Any action taken by departmental staff which results in the restricting, deleting, or withholding, beyond that time necessary for normal delivery, of an item of correspondence or a publication, or a part of an item of correspondence.

B. CONTRABAND: Any property the possession of which is in violation of Indiana or federal statute.

C. CORRESPONDENCE: Any letter, package, or printed matter written, initiated, forwarded, sent, received or transmitted through the U.S. Postal Service, or other private commercial carrier, to or from a confined offender.

D. INTAKE UNIT: Any facility or unit within a facility designated by the Commissioner to receive offenders from a court.

E. INDIGENT OFFENDER: An offender who has a Trust Fund account balance of less than fifteen dollars ($ 15.00) (not including any monies in the offender's Re-Entry Administrative Account) on the day of request and has not had a total of more than fifteen dollars ($ 15.00) credited to the Trust Fund account (not including the offender's Re-Entry Administrative Account) in the preceding thirty (30) days.

F. KIOSK: a small stand-alone device providing information and services on a computer screen

G. LEGAL CORRESPONDENCE: Correspondence mailed directly from or to a court, a judge or an attorney, whether it is the attorney in a criminal or civil action involving the offender, including opposing counsel, and which has been identified as legal mail. (This correspondence includes mail to the embassies/consulates of foreign nations by foreign nationals, legal organizations such as the American Civil Liberties Union [ACLU], American Civil Liberties Union of Indiana [ACLU-I], Legal Services Organization [LSO] or the Public Defender Council or Notices of Tort Claim sent to the Commissioner)

H. MAIL CLERK: The staff member(s) designated by the Superintendent to initially process and, when appropriate, inspect correspondence.

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I. PRINTED MATTER: Books, magazines, newspapers and other periodicals.

J. PRIVILEGED CORRESPONDENCE: Correspondence mailed directly to or from any of the following persons in their respective official capacities: local, state and federal officials, including but not limited to: Governor, all federal, state or local officials having responsibility for the offender's present, prior or anticipated future custody or supervision; the Commissioner or other officials of the Department; members of the Indiana Parole Board; the Indiana Inspector General; and the Indiana Ombudsman. Additionally, grievances and disciplinary appeals mailed to Central Office shall be considered privileged correspondence.

K. PROPERTY: Any item which the Department permits an offender to possess.

L. PROHIBITED PROPERTY: Any item that is not specifically permitted either in the administrative procedures for Policy 02-01-101, "Offender Personal Property," or by the Superintendent; property item amounts that exceed established limits; property items that are misused or altered; or, property items that are in the possession of an unauthorized person.

M. RESTRICTED CORRESPONDENCE: Correspondence between offenders that requires administrative approval.

N. RESTRICTIVE STATUS: The classification of an offender whose continued presence in the general population would pose a serious threat to life, property, self, staff, or other offenders, or to the security or orderly operation of a correctional facility. This definition does not apply to protective custody.

O. SOLICITATION: The act of begging, canvassing, or specifically requesting funds or other items of value; however, requests to an offender's immediate family (as defined in Policy 02-01-102) or friends on the offender's visitor list shall not be considered solicitation unless the offender is engaging in illegal or prohibited activities.

IV. GENERAL PRINCIPLE OF CORRESPONDENCE:

When the offender bears the mailing cost, there is no limit on the volume of letters the offender may send or receive or on the length, language, content, or source of mail or publications except when there is reasonable belief that the limitation is necessary to protect public safety or facility order and security.

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However, such correspondence shall not be written in code or include symbols which may disrupt the operation of the facility.

V. RESTRICTED CORRESPONDENCE:

An offender must obtain prior approval from the Department to receive or send correspondence to another person if the other person is:

A. Held in a correctional facility (Federal, State, or local);

B. On parole;

C. Sentenced to a community corrections program;

D. Held in a county jail;

E. Released from a Department correctional facility to county probation supervision;

F. Participating in a Community Transition Program (CTP); or,

G. Participating in a work release program.

The facility or program indicated in A-G may be operated by, or provided through contractual services to, a county, state, province, or federal unit of government. The burden of obtaining permission for such correspondence is with the offender. The offender must establish that the exchange of correspondence is in the best interests of both the confined persons and the facilities involved. This request shall be made on State Form 11985, REQUEST TO CORRESPOND WITH ANOTHER CONFINED PERSON, and shall be directed to the Superintendent or designee for approval or denial

The Superintendent of the facility housing the requesting offender shall review the request and make a recommendation. If the Superintendent's recommendation is to deny the request, the Superintendent shall indicate the denial and return the request to the offender, with a copy filed in the offender's facility packet. If the Superintendent recommends approval, the request shall be forwarded to the Superintendent of the facility/program housing the other offender. If the receiving facility/program is not under the jurisdiction of the Department, the Superintendent shall include a cover letter explaining the request. The Superintendent shall ask that the receiving Superintendent or designee review the request, make a recommendation and return it. The Superintendent or designee of the receiving facility shall contact the offender at that facility to determine whether the request to correspond is mutual.

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If the request involves facilities within the Department and the two (2) Superintendents disagree, the originating Superintendent shall forward the request, with all comments, to the appropriate Regional Director or Executive Director of Transitional Facilities for review and a decision. If the request is between a Department facility and a facility or program outside the Department's jurisdiction, a denial by either Superintendent shall be considered the final decision.

Any offender placed on a restrictive status for disciplinary or investigative reasons shall not be allowed to correspond with other offenders during the restrictive status period, regardless of any prior approvals. Upon release from restrictive status, any prior approval normally will be reinstated; however, the Superintendent or designee may rescind the prior approval if it is felt that continued correspondence would be detrimental to the safety and security of the public, facility, staff or offenders.

Denials of correspondence with other offenders shall not be used as a disciplinary measure, unless the denial is based upon a demonstrated abuse of this privilege by the offender.

An offender who is denied authorization to correspond with a person identified in Procedure V, A – G, may challenge the decision in accordance with Policy and Administrative Procedure 00-02-301, "Offender Grievance Process." If the request involves an agency outside the jurisdiction of the Department and the request is denied by the Superintendent of the outside agency, the decision of the Superintendent shall be final.

VI. PRIVILEGED CORRESPONDENCE:

An offender shall be permitted to mail privileged correspondence to government officials. Only correspondence sent to or received from the government officials in their official capacities as designated in these procedures shall be considered privileged correspondence. Privileged correspondence does not include correspondence mailed to the courts, attorneys, and legal organizations as this correspondence is considered legal mail. Offenders shall be required to designate on the envelope that the correspondence is “privileged.”

All outgoing privileged correspondence shall be inspected for contraband and/or prohibited property prior to being sealed. This inspection shall include verification that the contents pertain to the offender’s present, prior, or anticipated future custody or supervision as stipulated by the definition of privileged correspondence in Section III of this policy and administrative procedure. This inspection shall take place in the presence of the offender and once inspected and

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approved, the privileged correspondence shall be sealed in the presence of the offender. Outgoing privileged correspondence shall not otherwise be opened, read, censored, copied or otherwise interfered. Once sealed, staff shall not open privileged correspondence unless the facility acquires reason to believe that this correspondence does not meet the requirements to be considered privileged correspondence or it contains material that could jeopardize the health and safety of others or otherwise is in violation of this policy and administrative procedure, as described in more detail below in Procedure VII.

In cases where there is reason to believe that correspondence designated as privileged contains prohibited property, contraband or is not for official government business, the facility may open the correspondence and inspect it. When privileged correspondence is opened, staff shall complete State Form 11984, NOTICE AND REPORT OF ACTION TAKEN ON CORRESPONDENCE, and provide the offender with a copy of this form, including the reason the correspondence was opened or delayed. If the Department has been advised that a criminal investigation is being conducted in accordance with Procedure VIII D or Procedure IX D and notification to the offender would compromise the integrity of the investigation this mail may be opened and read without notification to the offender at that time. In such cases, State Form 11984 shall be completed; however, it will be filed in the offender's facility packet (the confidential section) and the offender not provided a copy until the criminal investigation is completed.

Offenders shall be responsible for the cost of mailing privileged correspondence. Offenders may use any free postage and stationary provided by the facility to mail privileged correspondence; however, the facility shall not otherwise assume the cost for privileged correspondence.

Privileged correspondence sent to an offender shall be opened and inspected for prohibited property or contraband only in the presence of the offender. The facilities shall handle incoming privileged mail in a manner similar to legal mail. Staff shall not read incoming privileged correspondence unless there is a reasonable belief that the correspondence is not privileged correspondence or that it contains information that presents a clear and present threat to the safety and security of the facility.

VII. LEGAL MAIL (See Operational Procedure):

Offenders shall be allowed unrestricted access to legal representatives and courts through the mail. Only that mail to or from an offender which is clearly identified as legal mail shall be treated as such. It is the responsibility of the sender to indicate that the correspondence is legal mail. Mail from a court, an attorney, or legal organization (such as LSO, ACLU, ICLU, etc.) shall be treated as legal mail.

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Also, mail identified as a Tort Claim sent to the Commissioner shall be treated as legal mail.

Offenders who are foreign nationals shall be permitted to correspond with the embassy or consulate of their home nation. This mail shall be considered legal correspondence and shall be subject to the same requirements as other correspondence designated as legal mail. Staff shall not interfere with a foreign national offender attempting to correspond with his/her embassy or consulate.

The facility shall not read, censor, copy, or unreasonably delay any legal mail sent to or from an offender. If the facility determines after opening the mail in the presence of the offender that it is not legal mail, in whole or in part, then the mail may be read and that portion which is not legal mail may be withheld, censored, copied, delayed, or otherwise interfered. When mail of this sort is withheld, read, censored, copied, delayed, or otherwise interfered, State Form 11984, NOTICE AND REPORT OF ACTION TAKEN ON CORRESPONDENCE, shall be completed and a copy given to the offender.

Outgoing legal mail shall be inspected for contraband and/or prohibited property in the presence of the offender and once the legal mail has been cleared, shall be sealed in the presence of the offender. Once sealed, staff shall not interfere with the processing of the legal mail unless additional information becomes available which reasonably would lead staff to believe that the legal mail is in fact not legal mail as indicated in this policy and administrative procedure or that the mail contains materials that could jeopardize the health and safety of others or is in violation of this policy and administrative procedure. Each facility shall ensure that its operational procedures contain a process where an offender would have regular access to staff that have the authority to inspect the offender's legal mail and seal the legal mail in the presence of the offender.

Each facility shall ensure that the offender population is informed as to the correct process to submit legal mail so that it will be inspected and sealed in the offender's presence. Additionally, the facilities shall ensure that the offenders are advised that if legal mail is submitted with general correspondence in the manner authorized for processing general correspondence, the legal mail will be considered the same as general correspondence for the purpose of reviewing and inspection. For example, if offender general correspondence is placed in a mail collection box in the facility and is then inspected, any legal mail placed in this mail collection box will be treated the same as the general correspondence placed in the box, including the inspection and reading of this correspondence.

Incoming legal mail, which is identified as such, shall only be opened and inspected in the presence of the offender. Each facility shall develop operational procedures to ensure that incoming legal mail is received and forwarded to a

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designated staff person who will open the incoming legal mail and inspect it for contraband and/or prohibited property in the presence of the offender. The inspection shall include opening of all the seams around the package, inspection of the packing material (e.g., bubble wrap, Styrofoam peanuts), and inspection of the material contained in the envelope/package. The offender shall only receive the contents of the mailing container along with a photocopy of the parcel showing sender's name, return address, and postmark date. In the event that contraband/prohibited property is discovered, the entire parcel is to be withheld. The offender shall receive a completed SF 11984, NOTICE AND REPORT OF ACTION TAKEN ON CORRESPONDENCE. An evidence card shall be completed, a conduct report written and the items and documentation forwarded to the Internal Affairs Office. Otherwise, the mailing container and packing material shall be destroyed daily. The above procedure shall be followed when offender-sent legal mail has been returned by the United States Postal Service as "return to sender."

The facility shall ensure that alternative staff persons are designated to conduct these inspections when the primary staff person is not available so that there is only a minimal delay in the delivery of the legal mail to the offender.

Outgoing offender legal mail shall not be delayed simply due to the fact that the offender does not have sufficient funds in the Inmate Trust Fund account to pay for the postage. If an offender is indigent, the facility shall mail legal correspondence at the first class postage rate without charge to the offender. In cases where an offender is not indigent but does not have sufficient funds to pay for first class postage for legal mail, the facility shall determine the amount of funds available in the offender's Inmate Trust Fund (i.e., funds not already dedicated to paying court filing fees, medical co-payments, or restitution/court orders). Any available funds in the offender's account shall be applied towards the cost of the first class postage. The offender shall sign an Inmate Trust Fund transaction form (e.g., "Request for Remittance") for the balance of the cost of the postage. The facility shall deduct the amount indicated on the transaction form as soon as any available funds are applied to the offender's account. The offender must show that he/she is either initiating litigation or has pending litigation and that the mailing of the legal correspondence is necessary for this litigation. In these cases, the same procedures as indicated above shall be followed. Mail sent by an offender to numerous attorneys in an attempt to find an attorney to represent the offender shall be at the offender's expense. If postage costs for legal mail cannot be recovered from an offender, the facility may take funds from the Inmate Recreation Fund to recoup the loss, if such funds are available. The amount of postage provided will be the amount necessary to mail the correspondence at the current rate for first class postage. It will be the responsibility of the offender to pay, at the time of mailing, for any mail that is sent certified or insured.

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VIII. OPENING OF CORRESPONDENCE:

All correspondence sent to an offender is to be opened by a staff person in order to permit verification and recording of receipt of property; and, inspection for, and removal of, contraband or prohibited property. For purposes of potentially forwarding mail for offenders that have been released and Section XVII of this policy and administrative procedure, verification of the offender's bed location shall occur prior to opening the correspondence to inspect for, and removal of, contraband or prohibited property (The United States Postal Service policy is to forward unopened first-class mail without additional postage charges).

Incoming correspondence is not to be censored, copied, withheld, disclosed to another person or otherwise interfered with in regard to its prompt delivery unless:

A. The Department has reasonable grounds to believe that the correspondence:

1. Poses an immediate danger to the safety of an individual or a serious threat to the security of the facility or program; or,

2. Is restricted correspondence as defined under Procedure V;

B. The correspondence contains contraband or prohibited property**;**

C. The offender has been:

1. Convicted of a crime that involved the use of correspondence to engage in an illegal activity; or,

2. Found guilty in a disciplinary hearing of using correspondence to commit a violation of the disciplinary code; or,

D. The Department receives a written request from a supervising authority of any federal, state law, or local law enforcement agency stating that the agency has reasonable grounds to believe that a crime is being committed or has been committed by the offender and requesting the department monitor the offender's correspondence.

Each facility shall notify all offenders that incoming correspondence may be monitored based upon the above-cited grounds. The facilities shall ensure that this information is posted in all offender housing units and included in the new offender orientation program.

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IX. INSPECTION OF OUTGOING CORRESPONDENCE (See Operational Procedure):

Correspondence sent from an offender shall be submitted unsealed to allow staff to monitor and inspect for prohibited property or contraband.

If staff of the facility has reason to believe that outgoing legal or privileged correspondence contains contraband or prohibited property, staff may open the outgoing legal or privileged correspondence in the presence of the offender for inspection. Once this correspondence is inspected, it will be resealed and placed in the mail. Once inspected, this correspondence shall not be returned to the offender.

During the inspection of outgoing correspondence, staff shall look into the envelope to determine whether contraband or prohibited property is present. All outgoing general correspondence shall be read by staff designated by the Superintendent within twenty-four (24) hours, excluding weekends and holidays, of the mailroom's receipt of the outgoing general correspondence. Those staff persons shall be authorized to remove the correspondence from the envelope, inspect for prohibited property or contraband and review the correspondence to ensure that there is nothing in the correspondence that may present a threat to the safety and security of the facility, staff, other offenders, or the public. Staff designated to read and inspect shall take all necessary precautions to ensure that an offender's correspondence is not lost or damaged during the inspection process. Staff shall not disclose to another person the contents of any correspondence which is read unless:

A. There are reasonable grounds to believe that the correspondence:

1. Poses an immediate danger to the safety of an individual or a serious threat to the security of the facility or program; or,

2. Is prohibited under Procedure V above;

B. The correspondence contains contraband or prohibited property;

C. The confined person has been:

1. Convicted of a crime that involved the use of correspondence to engage in an illegal activity; or,

2. Found guilty after a hearing conducted by the Department of using correspondence to commit misconduct;

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D. The Department or facility receives a written request from a supervising authority of any federal or state law enforcement agency stating that the agency has reasonable grounds to believe that a crime is being committed or has been committed by the confined person and that the Department should monitor the confined person's correspondence; or,

E. The Department or facility has reasonable grounds to believe that the correspondence may pose a threat to national security.

Outgoing mail that is read in accordance with these administrative procedures shall not require that a State Form 11984, NOTICE AND REPORT OF ACTION TAKEN ON CORRESPONDENCE, be completed unless other action is taken in regards to the correspondence.

Mail that has been submitted by an offender shall not be returned to the offender for sealing after it has been inspected and monitored. Designated facility staff shall seal all outgoing correspondence after it has been inspected and reviewed and prior to it being delivered to the designated mail carrier. Each facility shall ensure that the offender population is advised that correspondence shall be inspected and monitored. Each facility shall develop operational procedures that indicate the manner in which outgoing general offender correspondence is submitted, inspected, and reviewed by staff.

It is the responsibility of the Superintendent or designee to authorize correspondence to be censored, copied, or otherwise interfered with, based upon the guidelines presented in this procedure.

In cases where correspondence is delayed, copied, censored, withheld, or otherwise interfered with, State Form 11984, NOTICE AND REPORT OF ACTION TAKEN ON CORRESPONDENCE, shall be completed and a copy given to the affected offender pursuant to Procedure XII. In cases where correspondence is delayed, copied, censored or withheld pursuant to Procedure VIII. D or Procedure IX D, State Form 11984 shall be completed; however, the offender shall not be notified of this action. The staff person taking this action shall ensure that the reason for the action is indicated on the State Form 11984. The facility's and the offender's copy of this action shall be filed in the "Confidential" section of the offender's facility packet. The offender shall be given the offender's copy of State Form 11984 when it is determined that the need to withhold this information from the offender no longer exists.

The facility shall develop operational procedures to ensure that the delaying, reading, copying, censoring or withholding of any correspondence is in accordance with this policy and administrative procedure. Additionally, the operational procedures shall ensure that the contents of any monitored

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correspondence shall be shared only as indicated above, or in the case where there is reason to believe that the correspondence contains evidence of criminal activity or a possible threat to national security, it is shared with the appropriate state or federal law enforcement officials. The operational procedures shall specify the manner in which the facility shall notify the appropriate federal or state law enforcement agency and the staff person responsible for ensuring that this notification is done in accordance with this policy and administrative procedure.

X. RETURN ADDRESS AND MARKING OUTGOING CORRESPONDENCE:

Offenders are responsible for ensuring that all outgoing correspondence bears the following information in the upper left-hand corner of the envelope:

A. Indiana Department of Correction;

B. Title of facility or program;

C. Address of facility or program; and,

D. Name, identification number and housing assignment of the offender sending the correspondence.

Offenders shall not use a mail forwarding service, other individuals to forward their mail, or other third party mailings in an attempt to circumvent the requirements of incoming and outgoing correspondence. Correspondence sent via mail forwarding services shall be intercepted by staff and shall be returned to the offender or shall be submitted as evidence with a conduct report. State Form 11984 shall be completed and a copy given to the offender explaining the reason for the return of the correspondence.

Offenders who fail to use a return address on outgoing correspondence or who attempt to use a mail forwarding service or a third party shall be subject to discipline in accordance with Policy 02-04-101, "The Disciplinary Code for Adult Offenders."

Additionally, each facility or program shall ensure that all outgoing correspondence is identified in a conspicuous manner indicating that the correspondence is being sent by an offender in a correctional facility or program. This identification shall include the name and address of the facility or program sending the correspondence. Additionally, this identification shall include the following disclaimer or equivalent language:

> "This stamp identifies this correspondence as having been mailed by an offender incarcerated at the above correctional facility.

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WARNING: Not responsible for contents. Any enclosed money orders should be referred to your local Post Master before cashing."

XI. INMATE TRUST FUND:

Offenders may receive or request to mail funds from their Inmate Trust Fund outside the facility. The receiving or sending of funds from the Inmate Trust Fund shall be in accordance with the administrative procedures for Policy 04-01-104, "Inmate Trust Fund."

XII. DISPOSITION OF INCOMING CORRESPONDENCE:

Incoming correspondence shall be delivered to offenders without unnecessary delay. With the exception of weekends, holidays and emergencies declared by the Superintendent in accordance with Policy 02-03-102, “Emergency Response Operations,” incoming and outgoing offender correspondence is to be held no more than 24 hours for letters and 48 hours for packages. Once correspondence has been given to an offender, the correspondence becomes personal property subject to procedures established in Policy 02-01-101, "Offender Personal Property." Postage due mail shall not be accepted.

In order to ensure the prompt delivery of correspondence, the facilities shall advise offenders that incoming correspondence should have the offender's name, as it appears on the offender's commitment and the offender's identification number, as well as the facility's name and address, as a part of the address. Offenders are to be encouraged to request that persons sending them correspondence include the housing assignment; however, correspondence shall not be delayed in its delivery simply because the housing unit is not included in the address. It shall be the offender's responsibility to ensure that all persons writing to the offender include this information in the address of all incoming correspondence. If the offender's name, identification number or housing unit is not included in the address on incoming correspondence, the facility shall make a reasonable attempt to deliver the correspondence in as timely a manner as possible. However, the offender shall be made aware that in such cases there will most likely be a delay in the delivery of the correspondence and, if the facility cannot adequately determine the identity of the offender, the correspondence shall be returned to the sender. In those cases where the delivery of an identified offender's correspondence is delayed, State Form 11984 shall be completed and a copy given to the offender in accordance with Procedure XIII.

Any incoming correspondence that is received that appears suspicious (e.g., no return address, incomplete address/identification of the intended recipient, excessive taping, etc.) or which does not identify the intended recipient

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sufficiently to allow staff to identify the offender may not be delivered. Staff shall return any such correspondence that cannot be delivered to the offender to the sender, if known. If the sender and the recipient cannot be identified, staff shall return the correspondence to the Post Office as undeliverable.

If staff has a reason to believe that the correspondence is suspicious for reasons other than due to an incomplete address, the staff person shall attempt to isolate the correspondence and contact the immediate supervisor. If it appears that the correspondence poses a potential threat to the safety, security or health of the public, staff, or offenders, the staff person or supervisor shall contact the Superintendent or designee to determine whether an outside law enforcement agency is to be notified. Staff shall take the utmost caution to ensure the health and safety of him/herself, other staff and offenders. If the offender who is the intended recipient of the correspondence is known, staff shall provide the offender with a State Form 11984 delay or action taken regarding the correspondence.

XIII. REPORT OF ACTION TAKEN ON CORRESPONDENCE (See Operational Procedure):

Whenever a decision is made to delay, censor, copy, or withhold any correspondence, the offender is to be informed within two (2) working days of the action, except as indicated in Procedure VIII. D or Procedure IX D State Form 11984, NOTICE AND REPORT OF ACTION TAKEN ON CORRESPONDENCE, shall be used for this purpose. The staff person completing this form shall ensure that the following information is contained in the notice:

A. A complete description of the article being withheld;

B. The specific reason for the action;

C. The name of the sender;

D. The date of any postmark;

E. The date the correspondence was received or deposited at the facility or program;

F. The proposed disposition to be made of the correspondence;

G. The name of the person who made the decision; and,

H. The fact that the action may be challenged through the grievance procedure.

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If a determination is made that the correspondence shall not be given to the offender, the facility or program shall ensure that State Form 21682, DISPOSITION OF OFFENDER PERSONAL PROPERTY / CORRESPONDENCE, is completed prior to the final disposition being made. The offender shall be given the opportunity to designate the desired disposition in accordance with the procedures established for Policy 02-01-101, "Offender Personal Property," and Procedure XX below.

Correspondence sent to an offender in an envelope or package that is made of or contains materials that are considered to be a potential threat to the safety, security, or orderly operation of the facility (e.g., plastic “bubble wrap” or “peanuts”, plastic wrap, insulation, cardboard boxes, hard cardboard envelopes or Priority or Express Mail envelopes), may be withheld from the offender. If the packaging or packing materials are determined to be a security threat, the facility shall remove the packaging or packing materials and place or replace the correspondence or items in a suitable envelope or container. The facility shall ensure that the offender is notified as to the name and address of the sender, the postmark and the date the correspondence was received at the facility. This notification may be by use of State Form 11984 or other suitable means. The staff person taking this action shall sign indicating the action taken. The facility shall ensure that the offender population is aware of the types of prohibited envelopes/packages and the procedures for processing these types of correspondence. Packaging or packing materials withheld pursuant to these procedures may be disposed of as soon as the offender receives the contents of the correspondence and the notification. Operational procedures shall be developed indicating the appropriate procedures for notifying the offender of any action taken on correspondence and that the correspondence shall not be delayed any more than absolutely necessary.

XIV. INTERFERENCE WITH AN OFFENDER'S CORRESPONDENCE:

An offender's correspondence may not be censored, copied, delayed or disallowed for delivery solely on the basis of the sender's or receiver's apparent moral, political, ethical, ethnic or religious values or attitudes, veracity or choice of words.

XV. STATIONERY, ENVELOPES AND POSTAGE:

Each facility shall ensure that postage stamps, stationery and envelopes are sold through the facility’s commissary or through another means if the facility does not operate a commissary. Offenders shall be permitted to purchase sufficient postage stamps, stationery and envelopes to meet their correspondence needs. Facilities may limit the amount of postage stamps purchased at one time in order

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to reduce the use of postage stamps as currency in the facilities; however, offenders shall be permitted to purchase up to five (5) books of first class stamps (total of 50 stamps) each week (Five [5] books per commissary order if the offenders can order commissary weekly or ten [10] books per commissary order if commissary is ordered every two [2] weeks). Offenders shall be allowed to possess up to ten (10) books of stamps at any one time, unless the offender is found to be using the postage stamps inappropriately. Additionally, with the approval of the Superintendent, offenders may be permitted to request additional postage stamps or postage by using a "Request for Remittance" or similar form. Offenders may be required to justify the need for additional postage beyond what is available weekly from the commissary. The purchase of postage stamps from the commissary shall not interfere with an offender's ability to purchase hygiene or over-the-counter medications.

If possible, facilities are to sell various denominations of postage stamps through the commissary so that offenders will be able to put the correct postage on their correspondence. If the facility determines that it is feasible, the facility may allow the offenders to submit outgoing correspondence along with a "Request for Remittance" or similar form so that the correct postage may be affixed to the correspondence by the facility. If the facility does not allow this procedure, the facility shall provide the offenders access to a postage scale so that the correct amount of postage may be determined and placed on the correspondence.

Facilities, other than Community Re-Entry Centers/Work Release Centers, shall make available free postage, stationery (two [2] sheets per request) and an envelope for two (2) letters per month to all offenders. The postage provided shall be the equivalent of that necessary to send a first class letter. Offenders shall be required to submit a request for these free items to the designated staff in accordance with facility operational procedures. Failure of an offender to request these free items each month in accordance with the facility's operational procedures shall not require the facilities to provide these items at a later date. The facilities shall ensure that a procedure is in place to allow offenders who cannot request these items in the designated manner due to the offender being away from the facility or for other legitimate reasons to be able to request the items at an alternative time. Offenders may use these free pieces of correspondence to send legal and privileged correspondence. Paper provided to offenders either as free materials or sold through the commissary shall be 8 ½" x 11".

Due to the offender's access to the community, Community Re-Entry Centers/Work Release Centers shall ensure that adequate stationery, envelopes, and postage, equivalent to the current first class postage rate, for the transmission of one (1) piece of correspondence per month is available to all offenders at no cost. The Center Superintendent shall ensure that a notice is posted prominently

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advising offenders that these items are available upon request. Indigent offenders in the Work Release Program shall be provided with free stationery, envelopes, postage, and notary services for legal correspondence.

The envelopes provided to offenders for the above purpose shall be # 10 business envelopes or its equivalent. These envelopes may or may not be pre-stamped. The facilities shall ensure that the following information is contained in the return address:

- Offender's Name
- Offender's DOC Number
- Offender's housing location
- Name and address of the facility

Additionally, the disclaimer indicated in Procedure X shall be printed on the envelope directly below the return address. Envelopes sold on commissary shall be of a similar size and include the same information.

This procedure shall not be applicable to offenders who are not housed in a Department facility**,** unless specifically authorized in an agreement between the Department and the non-departmental facility.

XVI. CERTIFIED/INSURED CORRESPONDENCE (See Operational Procedure):

An offender shall be permitted to send mail either certified or insured. The additional cost for these services shall be the responsibility of the offender. The facilities shall ensure that the offenders are made aware of the availability of these services.

Offenders shall be permitted to receive certified mail. In cases where certified mail is received at a facility for an offender housed at the facility, the facility shall sign for the mail. The facility shall maintain a log for all certified mail received. This log shall include the name of the staff person who signed for the mail, the date the mail was received, the name of the offender, the date the mail was processed and disposition of the mail (i.e. whether it was delivered to the offender, forwarded to the offender at another address or returned to sender). An offender cannot refuse to accept certified mail.

Operational procedures shall be developed to process requests for sending mail certified or insured and for the delivery of certified/insured mail received at the facility.

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XVII. FORWARDING OF CORRESPONDENCE FOLLOWING OFFENDER'S RELEASE:

Correspondence received for an offender who has been transferred or released shall be forwarded to the offender's last known address. Such correspondence shall be forwarded to the offender in the most cost effective and expeditious manner. When possible and appropriate, the correspondence shall be forwarded using the same carrier by which it was delivered. A reasonable delay may exist between the time the correspondence is received and its subsequent forwarding to an offender who is in the legal custody of the Department but is housed at a different location or who has been released. When forwarding correspondence, staff shall follow the standards of the carrier delivering the correspondence. Staff shall not place correspondence being forwarded in another envelope or box or attach additional postage for forwarding, unless it has already been opened for inspection purposes, or unless such is required by the carrier delivering the item.

In those cases where an offender has been transferred to another Department facility, the facility previously holding the offender may hold correspondence and transfer it with staff going to or from the facility currently holding the offender. This method of forwarding correspondence may be used only if there are routine trips between the facilities. In such cases, the forwarding of the correspondence should not be delayed any longer than would be necessary if the correspondence was forwarded using a mail carrier.

Facilities shall not be required to forward types of mail sent to offenders that would not routinely be accepted for forwarding by the selected carrier. For example, it is not necessary for a facility or program to forward bulk rate mail sent to an offender who has been transferred or released. The facility shall mark these items "Moved, Return to sender" and then return the item to the appropriate carrier. Additionally, certain third class mail, i.e. advertisements and flyers, may be disposed of rather than forwarded.

If an offender's forwarding address is not known, any incoming correspondence shall be returned to the sender as quickly as possible. There shall be no unreasonable delay.

XVIII. SOLICITATION:

An offender shall not use the mail service to attempt to solicit funds or other items of value. Offenders shall not use correspondence privileges to solicit or otherwise commercially advertise for money, goods, or services. For the purpose of this policy and administrative procedure, this prohibition includes advertising for pen-pals. Offenders shall not be prohibited from corresponding with pen-pals; but, shall not place advertisements soliciting pen-pals. Offenders are prohibited from

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receiving correspondence or materials from persons or groups marketing advertising services or from subscribing to advertising services. Offenders who post advertisements or have advertisements posted with the assistance of another person shall be subject to disciplinary action. These prohibitions do not prohibit an offender from requesting funds from immediate family members (as defined in Policy 04-01-104, “Inmate Trust Funds”) or friends on the offender’s visitor list. However, these requests may be prohibited if the offender is engaging or attempting to engage in illegal or prohibited acts in connection with these requests for funds.

An offender may request, in writing, permission from the Superintendent or designee to ask other persons to send funds or contributions. A Superintendent who suspects that an offender is soliciting funds or contributions may delay and inspect or read the offender’s correspondence to determine whether the offender is soliciting. If a decision is made to delay, censor, or copy an offender’s correspondence, the facility shall follow the procedures indicated in Procedure XII.

If an offender receives large amounts of funds or receives funds frequently from a person not approved or if the facility has other reasons to believe that an offender is soliciting funds, the Superintendent may authorize the delay of the offender's correspondence, incoming and outgoing, to inspect for evidence of solicitation. The Superintendent must authorize in writing whenever an offender's mail is delayed and/or copied. If evidence is present that an offender is soliciting or attempting to solicit, the correspondence may be copied as evidence for a conduct report. In all cases where an offender's mail is delayed and/or copied, the offender shall be given a completed State Form 11984, "Notice and Report of Action Taken on Correspondence." The original correspondence shall be given to the offender after the appropriate action has been taken.

An offender suspected of soliciting may be charged with a violation the Disciplinary Code (Adult) or Code of Conduct (Juvenile). The alleged violation shall depend upon the perceived severity of the violation and/or whether disciplinary action for this type of violation has been taken previously. Use of the most serious Code violation will be reserved for the most serious instances of solicitation, such as those where a criminal intent can readily be established. If found guilty, the sanctions imposed shall be in accordance with the appropriate disciplinary procedure.

An offender who, with the intent of obtaining money or property from a person who is not an offender, knowingly or intentionally:

A. makes a misrepresentation to the other person to obtain or attempt to obtain money or other property from the other person; or,

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B. obtains or attempts to obtain money or other property from the other person through a misrepresentation made by another person

commits "Inmate Fraud," a Class C felony.

The Department is authorized to disclose to, or receive from, information to/from a person who is or may be the victim of inmate fraud in order to determine whether the offender has committed "Inmate Fraud."

Any funds that are received and are suspected to be improperly solicited or received as part of an "Inmate Fraud" shall be held until a determination of the Disciplinary Hearing Board. If the offender is found guilty, the funds shall be returned to the sender. If the sender is unknown, the funds shall be placed in the Inmate Recreation Fund as confiscated monies. Funds in the offender's Inmate Trust Fund account shall not be frozen or confiscated. The only exception to this condition is if a suspected victim contacts the facility and indicates that he/she has been a victim of the offender and requests restitution. In such cases, the alleged victim must provide sufficient evidence that the offender has been soliciting to allow a Conduct Report to be written. The Disciplinary Hearing Body may order the offender to pay restitution upon a finding of guilt. If restitution is ordered and the offender does not have sufficient funds in the Inmate Trust Fund, the Disciplinary Hearing Body may authorize the Business Office to place a hold on the offender's account until the solicited funds are repaid to the victim. Only court orders, previously imposed sanctions of restitution, medical co-payments and commissary purchases of basic hygiene/over-the-counter medications shall take precedence over this restitution.

XIX. PRINTED MATTER:

An offender may acquire or possess printed matter on any subject. However, printed matter shall be inspected and may be excluded if the matter is contraband or prohibited property. An offender must receive printed matter mailed directly from the publisher, the distributor, or an accredited institution of higher learning, unless the offender or the sender receives prior approval from the Superintendent to receive the printed matter from another source.

Printed matter which threatens the security of the public, facility, or program, contains multiple copies, or has an invoice indicating an amount due shall be considered prohibited property. Examples of the types of materials that are considered prohibited property and shall be excluded include, but are not limited to, those:

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A. Depicting or describing procedures for the construction or use of weapons, ammunition, bombs or incendiary devices;

B. Depicting, describing or encouraging methods of escape from correctional facilities, or contains blueprints, drawings or similar descriptions of correctional facilities;

C. Depicting or describing procedures for the brewing of alcoholic beverages or the manufacture of drugs;

D. Written in code;

E. Depicting, describing or encouraging activities which may lead to the use of physical violence or group disruption;

F. Encouraging or instructing in the commission of criminal activity; or,

G. Any printed matter that features nudity or any other material depicting nudity.

The term “nudity” means a pictorial depiction where genitalia or female breasts are exposed.

The term “features” means the printed matter contains depictions of nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one-time issues. The following are examples of commercial printed matter which, based on current practices of the publisher, and may be distributed to inmates even though they may contain nudity because the printed matter does not feature nudity as defined above:

- National Geographic
- Our Body, Our Selves
- Sports magazine swimsuit issues
- Lingerie catalogues

Any printed matter may change a single issue or its general policies and practices at any time which would make it acceptable or unacceptable for distribution. The above examples are guidelines only and are subject to change.

For purposes of this section, written text in the printed matter does not qualify the printed matter as containing nudity.

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This prohibition includes personal photographs of nude persons, as well as photographs of nude persons taken from books, magazines, electronic media, or other sources, that are sent to offenders in or with letters or other mailings. Printed materials that contain nudity for educational, medical or anthropological purposes are not included in this prohibition; however, they shall be reviewed on a case by case basis to ensure that they are in compliance with this policy and administrative procedure.

H. Containing sexually explicit material which by its nature or content poses a threat to the security, good order or discipline of the facility or facilitates criminal activity.

The term "sexually explicit" means a pictorial depiction of actual or simulated sex acts including sexual intercourse, oral sex, or masturbation.

For purposes of this section, written text in the printed matter does not qualify the printed matter as sexually explicit. However, printed matter with a sexual content will be reviewed on a case by case basis and is subject to exclusion if it poses a threat to the security or good order of the facility or facilitate criminal activity. Such printed matter may include those that contain printed or written depictions of:

- Deviate sexual conduct (as defined in IC 35-42-4-2);
- Exhibition of the uncovered genitals in the context of masturbation of other sexual activity;
- Exhibition of the uncovered genitals of a person who appears to be under sixteen (16) years of age;
- Sado-masochistic abuse (as defined in IC 35-49-1-8); or,
- Sexual intercourse or deviate sexual conduct with an animal;
- Sexual conduct or sexual acts that are in violation of state or federal statutes (e.g. rape, child molesting or exploitation, vicarious sexual gratification, sexual battery, incest).

Printed matter that has been edited by the publisher, distributor or another person in an attempt to circumvent the prohibition of sexually explicit materials may not meet the requirements of this policy and administrative procedure. If the edited printed material still depicts sexual conduct that is not approved by this policy and administrative procedure, the printed matter shall be withheld from the offender.

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Printed matter may not be excluded from an adult facility solely on the grounds that it is obscene or pornographic, unless it is obscene under Indiana law.

Printed matter that does not meet the Department's standards may be excluded only on an issue by issue basis. Printed matter obtained at a cost for an offender must be pre-paid.

If it is determined that a portion of the printed matter is to be excluded from a facility in accordance with the previous procedure, the entire printed matter shall be excluded. Staff shall not attempt to remove the offending portions of the printed matter and give the remainder to the offender. The offender shall be advised that the printed matter is to be excluded. The offender shall be provided with a State Form 21682 and allowed to determine a disposition for the excluded printed matter.

Printed matter that is received at a facility that contains unsolicited items that are considered prohibited property (such as computer disks, stickers, music compact disks, etc.) or unsolicited advertisements that are not appropriate shall be confiscated and not delivered to the offender. Staff shall notify the offender of the inappropriate items. If the item can be removed from the printed matter without damaging or destroying the printed matter, the offender shall be given the option to accept the printed matter without the objectionable item or sending the entire printed matter out of the facility. If the offender decides to accept the printed matter without the objectionable item, the offender shall be required to authorize the facility to dispose of the item in the most appropriate manner.

An offender may file a grievance regarding the exclusion of printed matter. If the offender files a grievance, the facility shall hold the confiscated printed matter pending the resolution of the grievance. If the offender grieves to the Department Offender Grievance Manager, the facility shall ensure that an adequate description of the printed matter is sent to the reviewing authority so that a decision may be rendered. If the reviewing authority does not believe that the description is adequate to make a decision, the reviewing authority may request that the confiscated printed matter be sent to Central Office for review. If the decision of the Department Offender Grievance Manager is to uphold the decision of the facility, in addition to notifying the offender and facility in accordance with the Offender Grievance Process, the Deputy Commissioner of Operations, if not the person making the decision, shall be notified. Upon notification, the Deputy Commissioner or designee shall notify all facilities that the printed matter has been excluded so that there will be consistency in regards to the printed matter that is permitted in the facilities.

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XX. DISPOSITION OF EXCLUDED OR CONFISCATED CORRESPONDENCE (See Operational Procedure):

The disposition of excluded or confiscated correspondence may be challenged by an offender in accordance with Policy 00-02-301, "The Offender Grievance Process," unless otherwise directed by an order of a court.

Correspondence that is excluded or confiscated shall be retained pending exhaustion of the grievance process. If the correspondence is found to be legitimately confiscated or excluded, it shall be disposed of in accordance with:

A. Safety and security of the public, facility, or program;

B. Any applicable statute or promulgated rule; and,

C. Convenience of the Department.

Prior to the disposition of the correspondence, or property that has been removed from correspondence, the facility shall ensure the offender has the opportunity to indicate the preferred disposition. State Form 21682, Disposition of Offender Personal Property / Correspondence," shall be completed and signed by the offender, in the presence of staff, prior to the disposition. In those cases where the offender refuses to complete State Form 21682, staff shall indicate this refusal on the form. The completed State Form 21682 shall be filed in the offender's facility packet. Should the confiscated or excluded property be determined to be contraband, the facility shall not be required to follow this procedure.

If it is determined that the correspondence shall not be permitted, the facility staff shall contact the offender and request that the offender advise as to what arrangements are to be made concerning the disposition of the correspondence. Any costs for forwarding correspondence shall be the responsibility of the offender.

Confiscated or excluded correspondence shall be disposed of within 15 days from the date of the final decision. If the offender does not provide the necessary information to dispose of the correspondence within the 15 days time period, the facility may dispose of the correspondence in an appropriate manner.

Operational procedures shall be developed to indicate how censored, excluded or confiscated correspondence or property will be handled.

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XXI. KIOSK EMAIL/VIDEOGRAMS (See Operational Procedure):

Facilities that provide email and videogram services for offenders through a contracted vendor shall provide offenders with the information and rules governing the use of the kiosk and fee schedule during facility orientation.

A. Offenders using kiosk email shall be subject to the same rules and procedures as regular correspondence as outlined in this policy and administrative procedure. Offenders that violate or abuse the rules governing kiosk email may have their email privileges temporarily or permanently suspended. Suspension resulting from an administrative action shall be initiated by the Superintendent or Assistant Superintendent based upon a staff member's recommendation and justification indicating reasonable knowledge, or information that kiosk email suspension is appropriate. Suspensions resulting from a disciplinary action may be initiated by a Hearing Officer, or designated staff. Temporary suspension shall be for a determinant length of time.

Suspensions for offenders housed in adult facilities shall be:

1. First Offense: Three (3) month suspension of kiosk email;
2. Second Offense: Six (6) month suspension of kiosk email; and,
3. Third Offense: Permanent suspension of kiosk email.

Suspensions for offenders housed in the Division of Youth Services facilities shall be:

1. First Offense: Thirty (30) days suspension of kiosk email;
2. Second Offense: Sixty (60) days suspension of kiosk email; and,
3. Third Offense: Permanent suspension of kiosk email.

Offenders receiving suspension from kiosk email shall receive documentation noting the suspension, the length of the suspension, and the reason(s) for the suspension.

B. Offenders sending and receiving videograms shall be informed that the videogram's content is subject to the same rules and procedure as outlined in this policy and administrative procedure. Individuals appearing in videograms shall comply with dress and behavior standards as outlined in Policy 02-01-102, "Offender Visitation."

C. Kiosk email and videograms shall be monitored by staff in a manner consistent with this policy and administrative procedure. A poster near the kiosk shall notify offenders that kiosk emails and videograms will be

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monitored. For this reason, offenders are encouraged to use the out-going mail service for Legal, Ombudsman, and Privileged mail. The Superintendent shall determine the staff member(s) granted access to review kiosk emails.

Facilities providing kiosk email and videogram resources shall develop an operational procedure to implement the principles of this policy and administrative procedure.

XXII. APPLICABILITY:

This policy and administrative procedure is applicable to all Department facilities and to all offenders committed or sentenced to the Department.

_____signature on file_____
Bruce Lemmon,
Commissioner

_____
Date