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INMATE CORRESPONDENCE

I. POLICY

- A. To specify the proper handling and maintenance of records from the delivery and mailing of inmate's confidential legal documents and regular mail, and to specifically identify these documents. This order shall apply to the handling and processing of all inmate correspondence within all correctional facilities maintained by the Mendocino County Sheriff's Office.
- B. There shall be no limits placed on the amount of mail, legal or regular that an inmate may send or receive.
- C. Inmate mail may be read when there is a valid security reason and the Facility Manager approves (Title 15, Section 1063(b)).
 - 1. Mail sent from one inmate housed within the facility to another inmate housed within the facility will be read for content before being sent out.
 - 2. The Corrections Division Commander, or designee, may prevent an inmate from sending mail that concerns escape plans, information about proposed criminal activity, the transmittal of encoded messages, contraband material which threatens prison security, material threatening the safety of the recipient, or material that is otherwise harmful.
- D. Inmates may correspond, confidentially, with state and federal courts, and any member of the State Bar or holder of public office however, jail authorities may open and inspect such mail only to search for contraband, cash, checks, or money orders and in the presence of the inmate.

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- E. Inmates may correspond, confidentially, with the Facility Manager or the Facility Administrator.
- F. Inmates who are without funds shall be allowed to send out two postage-free letters each week to permit correspondence with family members and friends but without limitation on the number of postage-free letters to his attorney and to the courts.
 - 1. Continued abuse of legal mail may result in limitations being set by the Corrections Division Commander or Corrections Lieutenant.

II. DEFINITIONS

A. Confidential/Legal Mail

- 1. Defined as mail which falls into any of the following categories:
 - a. Correspondence between an inmate and any State or Federal Court.
 - b. Correspondence between an inmate and any member of the State Bar. (This includes out-of-state attorneys.)
 - c. Correspondence between any inmate and any holder of public office.
 - d. Correspondence between an inmate and any member in the chain-of-command of the Sheriff's Office.
 - e. Inmate confidential/legal mail may only be copied by authority of a court order.

B. Regular Mail

- 1. Defined as all other mail that fails to meet any one of the above criteria.
- 2. For information on copying of non-legal mail, refer to the section "Copying of Non-Legal Inmate Mail" in this policy.

III. PROCEDURE

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A. Outgoing Confidential/Legal Mail

1. The inmate shall be required to contact the Housing Deputy of the inmate's particular housing unit when confidential legal mail is to be sent out.
2. The Housing Deputy shall confirm the mail is considered legal mail, and then instructs the inmate to riffle the papers or the document and to display the interior of the addressed envelope for visual inspection.
 - a. Corrections Division staff is prohibited from reading the document.
3. The inmate will place the document into the envelope and seal it before handing it to the Housing Deputy.
4. The Housing Deputy will place initials and I.D. # on the flap of the envelope. It will then be entered into the legal mail log by the Housing Deputy.
5. At no time during the processing of inmate mail shall inmate workers handle the inmate mail. Mail will be handled with care to reduce the chance of inmate mail being lost or inadvertently destroyed.
6. All outgoing mail will include the inmate's full name as it as appears in jail records, and assigned master number in the upper left corner on the envelope.

B. Outgoing Regular Mail

1. Inmates will place their unsealed letters in the designated mail receptacle in their housing unit.
2. The Housing Deputy shall conduct a cursory search of all unsealed regular mail brought into their possession.
3. Mail shall not be read, except where there is a valid security reason to justify such action AND the Facility Supervisor approves. The cursory search shall conclude with the letter being sealed.
4. All outgoing mail will include the inmate's full name booked under, and the assigned master number in the upper left corner on the envelope.

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5. The Housing Deputy will verify all "No Fund" regular mail to ensure:
 - a. Inmates may mail two (2) "No Fund" letters per week. There will be no limitation on "No Fund" legal mail.
 - b. After the "No Fund" letters are verified, the Housing Deputy will enter the information into the EVENTS screen of JALAN. It shall be entered as "NF" (No Fund letters).
 6. The Housing Deputy will then stamp all out going mail with the "Mendocino County Jail" stamp.
 7. The Housing Deputy will then take the mail and place it in the U.S. Mail slot, located outside the Lieutenants' office.
 8. All non-legal inmate mail shall be routinely scanned.
- C. Incoming Confidential/Legal Mail
1. Incoming Confidential/Legal Mail is delivered to the Jail Administration area where it is sorted for final distribution.
 - a. Incoming mail that has been identified as "Confidential/Legal" shall be logged into the legal mail log by the Housing Deputy.
 2. The Corrections Deputy will then open the letter in front of the inmate, remove and unfold the contents, and display the interior of the envelope for a visual inspection for contraband. The Corrections Deputy shall be required to riffle the page of the letter or document.
 3. When money is received in the correspondence, it will be immediately receipted.
- D. Incoming Regular Mail
1. The Corrections Deputy assigned to the Building Two Housing position shall pick up incoming mail daily from the Corrections mail receptacle. The mail receptacle is located adjacent to the Corrections Lieutenants' office.
 2. The Nightshift BII Housing Deputy will:
 - a. Sort by facility and housing unit;

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- b. Route all normal mail as necessary;
 - c. Deliver the inmate mail to the appropriate buildings; and
3. The Nightshift Housing Deputy will:
 - a. Distribute the mail to inmates prior to 2300 hours.
4. If an inmate has been released from custody, the Deputy will stamp the envelope "No Longer in Custody" and "Return to Sender." The returned mail shall be placed in the outgoing U.S. Mail slot located outside the Corrections Lieutenants' office.
5. Magazines and paperbacks may be received by inmates if sent directly from the publishers or recognized distributors and through the U.S. Postal Service, Fed Ex, UPS, or other private carriers. These items will be thoroughly inspected prior to being given to the inmate.
 - a. It is intended that small independent publishers would qualify to send material to inmates.
6. Packages, newspapers, and magazines mailed by individual parties (with the exception of attorneys and the court), will not be accepted for delivery to the inmate. Inmates will inform family members and friends that packages, newspapers, and magazines mailed by them will not be accepted.
7. Inmates will be permitted to purchase, receive, and read any book, newspaper, or periodical accepted for distribution by the U.S. Postal Service, except:
 - a. "Obscene, lewd, lascivious, or filthy publications or writings, or mail containing information on where, how, or from whom, such matter may be obtained, and matter that is otherwise mailable but that has on its wrapper, or envelope, any indecent, lewd, lascivious, or obscene writing or printing, and any mail containing filthy, vile, or indecent thing is nonmailable." (18 USC 1461, 1463.)
 - b. Publications containing depictions of nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon

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such depictions in the case of one-time issues. (42 USCS. 1983 Mauro v. Arpaio)

- (1) This section is meant to exclude materials such as the Sports Illustrated Swimsuit Issue or other publications that are promoted for sexual arousal.
 - (2) Exceptions to this section are publications that contain nudity illustrative of medical, educational or anthropological content such as National Geographic or similar publications.
 - c. "Any matter of a character tending to incite arson, murder, assassination, treason, insurrection, or forcible resistance to any law of the United States, or containing any threat to take the life of, or to inflict harm upon, the President of the United States is nonmailable." (18 USC 1461, 1717.)
 - d. Any matter of a character tending to incite crimes against children is prohibited.
 - e. Any matter of a character tending to incite crimes against animals is prohibited.
 - f. Any matter of a character dealing with the use of weapons, narcotics, and explosives is prohibited.
 - g. Any matter of a character of a publication dealing with the advertising of undergarments or sleepwear, as the main thesis is prohibited.
 - (1) The intent of this section is to exclude material such as Victoria's Secret whose partial intent is sexual arousal.
 - h. Material may be prohibited from an inmate based on that inmate's classification. This decision will be made by the Classification Supervisor in cooperation with the Corrections Lieutenant.
 - (1) The intent of this section is to exclude those inmates convicted of child molestation, and like offenses, from receiving publications dealing primarily with children.
8. The Housing Deputy shall process the regular mail as follows:

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- a. The incoming mail for each inmate will be opened in front of them and checked for contraband and money.
 - b. Stamps, envelopes, writing paper, blank paper, pages from books, bookmarks, opened forwarded letters, or multi-page greeting cards, (single page folded will be allowed) or cards with raised surfaces that have been received through the mail will not be accepted for inmates.
 - c. Pre-stamped postcards will be allowed, however, postcards that have stamps applied to them will not be allowed.
 - d. Photographs may be received as described in P/P 1700.00
 - e. Photographs larger than 4x6 inches, polaroids, or pictures containing nudity, images that stimulate sexual arousal, or offensive images that tend to incite aggressive behavior or promote escape will not be accepted.
- E. Rejected Mail
1. Mail that has been rejected by staff will be marked "Return to Sender".
 - a. If a return address is not on the item, it shall be returned to the U.S. Postal Service as a dead letter.
 - b. Books that are sent from publishers that are not authorized (i.e. hard cover books, excessive number of books) will be returned to the publisher at the inmate's expense or will be disposed of. Books will not be placed on an inmate's property.
 2. Staff will fill out a *Notice of Rejection* form.
 - a. The *Notice of Rejection* form will be filled out by the staff member with the appropriate notation for the refusal checked and the specific reason circled and/or a notation made under "Reason".
 - b. A copy of the *Notice of Rejection* form will be placed in the mail, package or item, and returned to the sender.
 - c. A second copy of the *Notice of Rejection* form will be forwarded to the inmate.

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- d. A third copy of the *Notice of Rejection* form will be placed in the inmate's A-file.

F. Limitations

1. The Facility Administrator may restrict the number of books, newspapers, or magazines the inmate may have in the cell or elsewhere in the facility at one time.

IV. UNAUTHORIZED COMMUNICATIONS WITH PRISONERS

- A. Penal Code Section 4570 – Communication with prisoner without permission of officer in charge; bringing in or taking out letters, writing, literature, etc.

“Every person who, without the permission of the warden or other officer in charge of any State prison, or prison road camp, or prison forestry camp, or other prison camp or prison farm or any other place where prisoners of the State prison are located under the custody of prison officials, officers or employees, or any jail, or any county road camp in this State, communicates with any prisoner or person detained therein, or brings therein or takes therefrom any letter, writing, literature, or reading matter to or from any prisoner or person confined therein, is guilty of a misdemeanor.”

- B. Penal Code Section 4570.1 – Prisoners in transit; written communications delivered without permission of officer in charge.

"Every person who, without permission of the peace officer or corrections officer in charge of any vehicle, bus, van or automobile used for the transportation of prisoners, delivers a written communication to any prisoner or person detained therein, or being escorted to or from that vehicle, or takes from or gives to the prisoner any item, is guilty of a misdemeanor."

V. COPYING OF NON-LEGAL INMATE MAIL

A. Legal History

1. Generally, any regulation that impinges on an inmate's constitutional right must be reasonably related to a legitimate penological interest. Absent a showing of some compelling justifiable purpose for prison security or discipline, interception and photocopying of non-legal correspondence is violative of the first amendment. (*Procunier v. Martinez* 416 U.S. 396 {1974}.)

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B. Request to Copy Non-Legal Inmate Mail

1. The request to copy inmate non-legal mail must meet the following criteria:
 - a. Further an important or substantial governmental interest unrelated to the suppression of expression.
 - b. It must not involve censoring correspondence simply to eliminate unflattering or unwelcome opinions or factually inaccurate statements.
 - c. The censorship furthers one or more of the substantial governmental interests of security, order, and rehabilitation, and
 - d. It is not unnecessarily broad in scope.
2. The Corrections Division Commander shall approve all requests to copy.
3. For additional information and guidelines, refer to the legal opinion from County Counsel, Op#00-751, September 11, 2000.

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