



STATE OF MONTANA  
DEPARTMENT OF CORRECTIONS  
POLICY DIRECTIVE

Policy:	<b>DOC 3.3.6 OFFENDER MAIL</b>
Chapter 3:	FACILITY/PROGRAM OPERATIONS
Section 1:	Rights and Privileges
Effective Date:	June 1, 1998 <span style="float: right;">Page 1 of 7</span>
Revised:	September 28, 2020
Signature:	/s/ Reginald D. Michael

**I. POLICY**

The Department of Corrections secure facilities will establish procedures that permit offenders to send and receive mail in accordance with the provisions of this policy and subject only to the limitations necessary to maintain public safety and facility order, security, health, and rehabilitation.

**II. APPLICABILITY**

All Department secure facilities.

**III. DEFINITIONS**

Administrator – The official, regardless of local title (division or facility administrator, bureau chief, warden, superintendent), ultimately responsible for the division, facility or program operation and management.

Contraband – Any item possessed by an offender or found within the facility that is illegal by law, prohibited by policy or procedure, or unauthorized by those legally charged with the administration and operation of the facility.

Correspondence – Letters sent and received.

Designee – The person designated to act on behalf of the person responsible for specific decisions or actions.

Electronic Mail (E-Mail) – An approved electronic means of communication provided through a DOC approved vendor for offenders to send messages to recipients.

General Correspondence - All correspondence not otherwise considered legal or privileged correspondence.

Immediate Family Member – An offender’s legal spouse, natural or adoptive parents and children, siblings, grandchildren, grandparents, corresponding in-law, person verified as being primarily responsible for raising the offender in the absence of a parent and any other member of the offender’s household.

Legal or Privileged Correspondence – Legal correspondence includes correspondence to or from the office of a licensed attorney, court, court official, Montana Human Rights Bureau, consular official, or any individual or entity designated to receive Prison Rape Elimination Act communications, and any correspondence or documents (e.g., a summons and complaint) sent to a

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sheriff's office for service of process. Privileged correspondence includes correspondence to and from attorneys associated with recognized legal advocacy groups, such as the ACLU, the Montana Innocence Project, and Disability Rights Montana.

Mail – All mail, including correspondence, publications, and packages.

Sexually Explicit Material – Material that portrays, depicts, or describes:

1. Nudity, which includes exposed, partially exposed, or transparently exposed male or female genitalia, pubic area, or anus, or female areola. Photographs or pictures images that contain blackened dots, stars, or other similar such covering of the areola of the female breast or of human genitalia will also be considered as nudity.
2. Sex act(s), including but not limited to genital to genital, oral to genital, anal to genital, or oral to anal contact or penetration, genital or anal contact or penetration with an inanimate object, masturbation, sadistic or masochistic abuse, bondage, bestiality, and/or bodily excretory behavior which appears to be sexual in nature.
3. Participant(s) who appear to be nonconsenting, dominated, degraded, humiliated, or in a submissive role, and/or acting in a forceful, threatening, dominating, or violent manner that appears to be sexual in nature; and/or
4. Minor(s), or models depicting minors, in a sexually suggestive setting, pose, or attire.

Urgent Situations – Any significant disruption of normal facility or agency procedure, policy, or activity caused by riot, escape, natural disaster, employee action, or other serious incident.

#### **IV. Department Directives**

##### **A. Requirements**

1. Youth correctional facilities may establish procedures that do not strictly comply with the provisions of this policy due to national correctional standards allowing youth offenders to send privileged correspondence to a broader range of officials than is allowed by policy for adult offenders and additional limitations on the nature and amount of publications to which underage offenders may subscribe.
2. Outgoing correspondence must indicate on the envelope the sending offender's name, identification number, and the proper name and address of the facility in which the offender is incarcerated.
3. The facility administrator, or designee, is responsible for assigning a staff member to oversee offender mail services and for establishing and maintaining operational procedures that address the following requirements:
  - a. rules and regulations governing offender mail must be available to staff, offenders, and offenders' correspondents;
  - b. when an offender bears the cost of postage, there is no limit on the source, destination, amount, or content of incoming or outgoing correspondence, within the parameters of this policy, including, but not limited to, air, certified, registered, oversized, and overweight mail services;
  - c. provide for the convenient deposit and distribution of mail on every business day;
  - d. all incoming and outgoing offender general correspondence and packages may be opened, read, and inspected for contraband and prohibited content;

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- e. staff inspect, confiscate, and dispose of contraband including, but not limited to, currency and unauthorized enclosures and staff apprise offenders of such actions;
- f. methods for identification and handling of prohibited mail;
- g. first-class general correspondence is forwarded after an offender's transfer or release when a forwarding address is available and, if unavailable, mail may be returned to the sender;
- h. if an offender is transferred to a different Department-owned or Department-contracted prison, the offender's legal or privileged mail will be returned to sender with a notice of the offender's new address;
- i. offenders are provided access to U.S. Postal Service regulations;
- i. indigent offenders are provided the means to send a reasonable amount of correspondence each month;
- j. address restricted items, e.g., credit cards or credit card applications, or other materials that may be disposed of on the basis of security; and
- k. incoming and outgoing mail inspection procedures adhere to the following time frames, excluding weekends, holidays, urgent situations and when the offender is temporarily absent from the facility, e.g., in the hospital or on leave to court:
  - 1) correspondence, including legal or privileged, and publications are held for inspection no longer than 72 hours; and
  - 2) packages are held for inspection no longer than 72 hours.

## **B. Limitations and Prohibitions**

1. Facility procedures will allow uncensored offender correspondence when correspondence is in accordance with this policy. When facility staff censor or reject offender correspondence, the offender or source must be notified of the reasons for the action and have an opportunity to appeal the decision to officials who did not participate in the original disapproval of the correspondence.
2. Offenders may not send or receive mail that contains sexually explicit material including publications that feature on a regular basis or promote sexually explicit material.
3. Correspondence is not allowed between an offender and any individual committed to a Department-owned or contracted secure care facility unless the facility administrator(s) approve an exception to the policy on a case-by-case basis.
4. General incoming or outgoing correspondence found to contain any of the following will be held and may be referred to the Office of Investigations, which will investigate according to Department policy and determine whether the offender will be informed that the correspondence is undeliverable pending the investigation:
  - a. threats of physical harm against any person or threats of, or participation in, criminal activity;
  - b. blackmail or extortion;
  - c. plans for activities in violation of DOC policy or facility-specific procedure, such as riots or plans to escape or assist another to escape;
  - d. contraband including drugs or drug paraphernalia;
  - e. other material which, if communicated, would create a serious danger to facility security;

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- f. contents that violate U.S. Postal regulations; or
  - g. taped correspondence unless the offender obtained prior approval from the facility administrator.
5. To address the potential for contraband to be concealed in adhesives, facilities may adopt procedures to implement protocols that may include one or more of the following:
    - a. postage on incoming general correspondence must be in the form of postage from a United States Postal Service postal meter or an envelope with preprinted postage;
    - b. staff will photocopy all general correspondence before delivery;
    - c. staff will photocopy only envelopes or other portions of general correspondence using adhesive before delivery;
    - d. staff will cut off or otherwise remove stamps or other items adhered to incoming general correspondence; or
    - e. general correspondence with adhesives will be addressed on a case-by-case basis.
  6. Incoming correspondence must be on standard size (8.5" x 11") white copy, printer, or loose-leaf paper or standard stock postcards. Due to increased susceptibility for concealment of contraband, the following types of correspondence are prohibited:
    - a. Postcards featuring any type of printed design, picture, or depiction;
    - b. Greeting cards; or
    - c. Any unusually thick paper or stationery.
  7. Incoming correspondence must be written in pen or pencil. Incoming correspondence containing markings made with any of the following are prohibited:
    - a. Marker;
    - b. Crayon
    - c. Colored pencil;
    - d. Glitter;
    - e. Chalk;
    - f. Lipstick; or
    - g. any type of adhesive material.
  8. Incoming correspondence may contain photocopies of drawings made using colored/pencil or crayon, paintings, or greeting cards, provided the photocopies do not violate any other provision(s) of this policy.

### **C. Legal or Privileged Correspondence**

1. Legal or privileged correspondence must be marked on the front of the envelope as "Legal Mail," "Legal Correspondence," "Privileged Mail," or "Privileged Correspondence," and must have a mailing address or return address which clearly indicates that the mail is to or from a source listed in the definition of "legal or privileged correspondence" above.
2. Incoming mail readily identifiable as being from a court will be handled as legal correspondence, regardless of whether its envelope has been marked as legal mail or legal correspondence.

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3. Staff may not read the content of incoming or outgoing legal or privileged correspondence.
4. The following standards apply to legal or privileged correspondence:
  - a. if outgoing, the offender must indicate on the envelope the name and official status of the addressee, and present the correspondence unsealed to staff, who will inspect the enclosed correspondence by shaking the pages to ensure no contraband is hidden before the offender seals the envelope ; and
  - b. if incoming, the sender must indicate on the envelope his or her name and official status and the correspondence will be opened by staff to inspect for contraband in the presence of the offender, unless waived by the offender in writing, or in circumstances which may indicate contamination as approved by the administrator, or designee.

#### **D. General Correspondence Requirements**

1. Outgoing general correspondence may be stamped by the facility with the facility name and address.
2. Offenders must leave outgoing general correspondence unsealed to be read by facility staff.
3. If a recipient of offender correspondence notifies the facility administrator, or designee, he or she does not wish to receive correspondence from an offender, the facility will notify the offender and return to the offender any correspondence addressed to the recipient.
4. Financial transactions will adhere to the following standards:
  - a. offenders may request that the facility transfer money from his/her account to a person on the offender's approved correspondence or visiting list; and
  - b. facility procedures will dictate the process by which offenders may receive money from approved correspondents.
5. General correspondence that is in a language other than English or in code, completely or in part, will not be treated differently because it is not written in English; however, the correspondence may be delayed for translation in accordance with the following:
  - a. staff will exercise due diligence and make a good faith effort to translate and review contents within ten calendar days for compliance with this policy;
  - b. if translation will delay the normal mailing of the correspondence, the inmate will be notified;
  - c. if attempts to translate are unsuccessful within 10 days, the inmate will be provided a written notice of the undeliverable mail including a description of why the document was rejected and the effort's made to translate the document;
  - d. correspondence may be rejected if it is determined that the document contains written material that is detrimental to the security, order, or discipline of the institution; and
  - e. if the Department is unable to attain translator services, offenders will continue to receive correspondence.

#### **E. Publications**

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1. Offenders may receive publications in any language or code to include books, magazines, and newspapers sent directly from the publisher and prepaid publications sent directly from a publisher, book club, or book store, following staff determination that content does not violate the provisions of this or any other existing DOC policy or facility-specific procedure or contain, advocate for, or encourage the following:
  - a. instructions for manufacturing of explosives, weapons, drugs, or drug paraphernalia;
  - b. violence or disruption of the safety and security of the facility;
  - c. racial, religious, or national supremacy or hatred;
  - d. behavior that is detrimental to rehabilitation such as gambling, illegal sexual activity, or the commission of a crime; or
  - e. sexually explicit material.
2. Deliveries of books, magazines, newspapers, advertising brochures, catalogs, newsletters, or other published materials may be provided to an offender when the publication is addressed to the individual offender and includes the appropriate offender identification number; if mailings are properly addressed and denied for content, facilities must have procedures for adequate offender notification.
3. Bulk mailings not addressed as prescribed by this policy may not be delivered and the facility is not required to provide an undeliverable notice to the offender. Facility administrators are advised to consult the U.S. Postal Regulations and local post office regarding the proper handling of undelivered bulk mailings, i.e., whether the postal service destroys them or delegates to the facility the permission to destroy them.

#### **F. Packages**

1. A designated facility staff member will:
  - a. screen and approve all offender packages;
  - b. process packages in an area inaccessible to offenders;
  - c. dispose of all packaging material outside of the facility; and
  - d. inventory and document package contents in accordance with facility procedures.
2. Offenders will pay to ship packages and send them only to persons on the offender's approved correspondents or visiting list.

#### **G. E-mail**

1. Facilities may offer offender e-mail capabilities through the Department's vendor-provided e-mail service.
2. The procurement of offender e-mail services will be sourced and approved in accordance with *DOC Policy 1.2.9 Contracts*.
3. Offenders will access e-mail services through offender issued tablets and must adhere to the guidelines set forth in *DOC Policy 3.3.10 Offender Issued Computer Tablets*.
4. Email exchanges will be initiated by the offender.

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5. Recipients will be able to accept or deny email requests.
6. Recipients will be charged for accepted requests and will incur a fee per email
7. Emails will be subjected to the same restrictions as physical mail.
8. Facilities/programs offering offender email services must establish procedures highlighting their specific email service functions, access, and usage.
9. The facility administrator may suspend/revoke e-mail services due to violations of Department policy or facility/program procedures applicable to the device or service. The facilities/programs must establish an appeal/review process for suspension/revocation.

#### **IV. CLOSING**

Questions concerning this policy should be directed to the facility administrator.

#### **V. REFERENCES**

- A. 45-7-307, MCA
- B. 4-4487 through 4-4496; *ACA Standards for Adult Correctional Institutions, 4<sup>th</sup> Edition*
- C. 4-4492, 4-4495; *ACA 2008 Standards Supplement*
- D. 3-JTS-5H-01 through 3-JTS-5H-10; *ACA Standards for Juvenile Correctional Facilities, 2003*
- E. 3-JTS-5H-04, 3-JTS-5H-08, 3-JTS-5H-09; *ACA 2008 Standards Supplement*
- F. *Guidelines for the Development of a Security Program, 3<sup>rd</sup> Edition, 2007*
- G. *DOC Policy 3.1.17, Searches and Contraband Control*

#### **VI. ATTACHMENTS**

None