



**TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE**

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**SUPERSEDES: BP-03.91 (rev. 2)
February 11, 2010**

BOARD POLICY

SUBJECT: UNIFORM OFFENDER CORRESPONDENCE RULES

AUTHORITY: 18 U.S.C. § 1716; Tex. Gov't Code §§ 498.0042, 492.013(a), 499.102(a)(12), 501.009; Tex. Pen. Code § 38.111

Reference: American Correctional Association (ACA) Standards 4-4487, 4-4488, 4-4489, 4-4490, 4-4491, 4-4492, 4-4493, 4-4494, 4-4495, and 4-4496; AD-04.82, "Forfeiture of Good Conduct Time for Contacting a Victim without Authorization," AD-03.72, "Offender Property," AD-14.09, "Postage and Correspondence Supplies," Substance Abuse Treatment Operations Manual 03.03A, "Offender Correspondence Rules", COURAGE Program Operations Manual 02.07, "Prohibition Against Selling, Distributing, or Exhibiting Harmful Material to a Minor," and Sex Offender Rehabilitation Programs Policies and Procedures 02.06, "Offender Correspondence Rules"

APPLICABILITY: Texas Department of Criminal Justice (TDCJ)

POLICY:

The TDCJ shall facilitate written contact between offenders and the offenders' families and friends. All incoming and outgoing correspondence, except as otherwise provided in this policy, is subject to delivery, inspection, and rejection in accordance with the following rules.

DEFINITIONS:

"Altered Photo" is an image with content in violation of this policy that has been edited, including, but not limited to, by removing or changing the contents of the image with a computer software program or other means.

"Business Day" is Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding holidays.

“Contraband,” for the purpose of offender correspondence, is any physical item that presents a threat to the safety or security of the staff, offenders, institution, or public; this does not include any written material disapproved for its content.

“Director’s Review Committee” (DRC) is the body of appointed TDCJ administrators with the authority to hear all appeals related to rejected correspondence, publications, and placements on negative mailing lists.

“eCommDirect” is a program made available through a link on the TDCJ website or the Texas.gov website by which offender family and friends may purchase items and have the items delivered to offenders through the unit commissary. Eligible offenders may receive up to \$50 every calendar quarter. This amount does not affect the spend period amount allowed for commissary purchases. Medium custody, close custody, Level 2 and 3 administrative segregation, mental health, and commissary restricted offenders are not eligible to make purchases through eCommDirect.

“Educational Materials,” for the purpose of this policy, are books and literature targeted toward educational purposes.

“E-message” is an electronic written communication sent to a TDCJ offender. This communication shall be treated in the same manner as incoming general correspondence.

“General Correspondence” is any mail sent to or from a general correspondent or not otherwise included in the definitions of legal, media, or special correspondence.

“General Correspondent” is any person corresponding with an offender who is not included within the definitions for legal, media, or special correspondents.

“Indigent Status” is when a TDCJ offender: (1) has less than a \$5 balance in an inmate trust fund (ITF) account; (2) has a damaged or misplaced identification (ID) card; or (3) is on week one of lockdown status for more than seven consecutive days as outlined in AD-03.31, “Unit Lockdown Procedures.”

“Legal Correspondence” is any mail sent to or from a legal correspondent.

“Legal Correspondent” is any attorney licensed in the United States or a legal aid society, which is an organization providing legal services, that contacts an offender in order to provide legal services.

“Mail System Coordinators Panel” (MSCP) is the body designated to assist in the maintenance and coordination of the Uniform Offender Mail System. The MSCP serves to bring uniformity to the decisions of the various units by providing technical assistance and rule interpretation; serves as the centralized authority for the review of publications for initial unit acceptance or denial; provides training for mailroom staff; conducts in-depth monitoring of all unit mailrooms; and submits periodic reports pertaining to the offender mail system.

“Media Correspondence” is any mail sent to or from a media correspondent.

“Media Correspondent” is any member of the editorial and reporting staff of any newspaper or magazine listed in the *Gale Directory of Publications* or the *Editor & Publisher Year Book* or the editorial and reporting staff of any radio or television station. Other members of the media, including freelance members, may petition the DRC to be included within the definition of media correspondent.

“Reference Book” is a book, such as a dictionary or encyclopedia, that can be referred to for authoritative information. The book may contain useful facts or specially organized information.

“Sexually Explicit Image” refers to material in publications, photographs, drawings, or any type of image, which depicts sexual behavior and is intended to cause sexual excitement or arousal by showing frontal nudity of either gender, including the exposed female breast(s) with nipple(s) or areola(s), the genitalia or anus of either gender, or depicts sexual behavior from any vantage point. The chests of infants and pre-pubescent children are not considered breasts, unless further restricted by a treatment program policy.

“Special Correspondence” is any mail sent to or from a special correspondent.

“Special Correspondent” is any member of the Texas Board of Criminal Justice; the executive director; the deputy executive director; any division directors, deputy directors, Prison Rape Elimination Act (PREA) ombudsman, or wardens of the TDCJ; any court or district or county clerk of the United States or any of the states of the United States; any member of the legislature of the states or the United States; the President of the United States or the governor of any state of the United States; the attorney general of the United States or any attorney in the United States Department of Justice; the director or any agent of the Federal Bureau of Investigation or any official of any federal, state, or local law enforcement agency, including offices of inspector general, the directors of state departments of corrections, the Bureau of Prisons, and parole commissioners from other states; the attorney general or any assistant attorney general of any state; any member or commissioner of the Texas Board of Pardons and Paroles; any foreign consulate, which includes the consul general, vice consul, deputy consul, or honorary consul of any country of which the offender is a citizen; or the Texas State Law Library or any county law library in the state of Texas.

“Stationery” is paper and envelopes, to include carbon paper, purchased through the unit commissary by the offender, provided through the indigent correspondence supply program, or purchased by offender families and friends through the eCommDirect program.

“Watch List” is a TDCJ Mainframe generated list of offenders on special correspondence restriction, negative mailing lists, and names submitted by the Security Threat Group (STG) officer, unit safe prisons coordinator, the Office of the Inspector General, or unit administration.

PROCEDURES:

I. General Rules and Instructions Regarding Correspondence

A. Permissible Correspondents

An offender may correspond with as many persons as the offender chooses, except as restricted by this policy.

B. Restricted Correspondents

1. Other Offenders

Offenders may not correspond with other offenders unless:

- a. The offenders are immediate family members, which means parents, step-parents, grandparents, children, stepchildren, spouses, common law spouses, siblings, and aunts and uncles;
- b. The offenders have a child together, as proven through a birth certificate, and the parental rights have not been terminated;
- c. The offenders are co-parties in a currently active legal matter; or
- d. The offender is providing a relevant witness affidavit in a currently active legal matter.

Prior to an offender being approved to correspond, relationship issues shall be verified through the records office and legal matters shall be verified through the access to courts department.

2. Negative Mailing List

Offenders shall be denied permission to correspond with persons on the offender's negative mailing list. Persons on that list may be:

- a. Minors whose parents or guardians object, in writing, to the correspondence, except an offender's own child or stepchild, unless the child or stepchild is the offender's victim as described in Section I.B.3, or there is a valid court order prohibiting contact after parental rights have been terminated;
- b. Individuals who request, in writing, not to receive further correspondence from the offender;
- c. Offenders who request, in writing, not to receive further correspondence from an individual;

- d. Victims of the offender with whom the court prohibits contact during confinement; and
- e. Individuals who have attempted to send contraband into the institution or otherwise committed a serious violation of these correspondence rules, as determined by the warden. A person who commits a serious violation of this policy may be prohibited from any further correspondence with a particular offender and may be placed on a negative mailing list of persons with whom that particular offender may not correspond. Within three business days of placement on a negative mailing list, a notice, accompanied by a statement of the reason for placement on the negative mailing list, shall be sent to the disallowed person and to the offender, along with the procedures to appeal.

3. Victims

- a. Pursuant to AD-04.82, "Forfeiture of Good Conduct Time for Contacting a Victim Without Authorization," the TDCJ prohibits unauthorized contact with a victim or a victim's family member by offenders if:
 - (1) The offender is currently serving time for committing a crime against that victim;
 - (2) The victim was younger than 17 years of age at the time of the offense; and
 - (3) Written authorization for the contact was not obtained prior to the initiation of the contact.
- b. A court may prohibit an offender from contacting, during the term of confinement, the victim of the offense of which the defendant is convicted or a member of the victim's family.
- c. Offenders making unauthorized contact with victims shall be charged with a major disciplinary offense and, if the charge is sustained, may forfeit all or any part of accrued good conduct time credit if the offender is not a state jail offender. A state jail offender shall be assessed a major disciplinary penalty if the charge is sustained.

- d. An offender may also be subject to criminal charges for improper contact with a victim.

C. How to Correspond

There is no restriction placed upon the length of incoming or outgoing correspondence. All offender mail shall be sent and received through duly authorized channels. Offenders shall not smuggle letters in or out of the institution.

1. Authorized Channels

Offenders may only send First Class, Certified, Media Rate, or Priority United States mail through the offender mail system. Inter-agency truck mail may only be used by offenders when communicating with TDCJ officials.

2. Cash on Delivery (C.O.D.) Mail

Offenders may neither send nor receive C.O.D. mail. Unauthorized items arriving by mail shall be returned to the sender at the expense of the offender if ordered by the offender, unless the offender is without funds, in which case the mail shall be returned at the sender's expense. Offenders shall be notified when C.O.D. mail is returned to the sender.

3. Packages

All outgoing packages shall not be sealed for mailing until inspected by TDCJ staff. Packages shall be free of contraband or material that constitutes a threat to security or cannot be lawfully sent through the mail. Inspection of this mail shall be done in the presence of the offender. Outgoing packages may be mailed at a media mail rate if the contents of the package meet the media mail rate guidelines established by the U.S. Postal Service (USPS). These rules shall not apply to outgoing packages to special, legal, and media correspondents, which shall be governed by the rules relating to such correspondence.

Offenders are not allowed to receive packages containing stationery supplies. Packages of publications may be sent to offenders by publishers or publication suppliers, including bookstores. The TDCJ shall accept delivery of packages from public carriers only, such as USPS, UPS, FedEx, or DHL. Special provisions are made for packages to be received from suppliers for craft shop operations. All incoming packages shall be subject to inspection. Offenders shall be notified when unauthorized packages have been denied.

4. Return Address and Outgoing Correspondence

Each outgoing envelope or package shall include the sending offender's commitment name, TDCJ number, unit name, current address, and postage. Offenders having a legal name other than the commitment name may also place that name in the return address. No other information shall be made part of the return address.

Offenders may not embellish outgoing envelopes with illustrations or written messages other than the return address, the name and address of the intended recipient, and a notation that the envelope contains legal, special, or media mail; photos do not bend; or fragile.

After consultation with the MSCP, mailroom officials shall not mail any outgoing correspondence from an offender that mailroom officials reasonably believe will be deemed non-mailable by the USPS pursuant to 18 U.S.C. § 1716. This includes envelopes or packages having noxious odors or containing liquids or powders.

5. Stationery

Any type of stationery, whether bought at the commissary, purchased through the eCommDirect program, or authorized for issuance to indigent offenders may be used for correspondence. Offenders shall not use homemade envelopes to correspond.

6. Indigent Postage

Postage and stationery for mail from indigent offenders may be secured through the warden's designee. Postage and stationery shall be made available at regular intervals to indigent offenders, including those in administrative segregation. Postage and stationery shall be furnished to an indigent offender for correspondence to any special correspondent listed in these rules and to any attorney or legal aid society. An indigent offender may use indigent postage to send five one-ounce domestic letters per month to general correspondents and five items per week to legal or special correspondents. An offender may send extra letters to general, legal, or special correspondents using indigent postage if requested for a legitimate reason and approved by the warden.

Funds expended by the TDCJ for postage and stationery for indigent offenders shall be recouped by the TDCJ from funds later deposited in the offender's ITF account.

D. Publications

An offender may receive publications in the mail only from the publishers or publication suppliers, including bookstores. Offenders ordering publications shall forward payments for subscriptions to individual publications with the order. Offenders shall not receive publications of any kind on a trial basis with payment postponed. Persons desiring to give publications directly to individual offenders must have the publications mailed from publishers or publications suppliers, including bookstores. Publications received by offenders may be in languages other than English.

E. Reference Books and Other Educational Materials

An offender may receive reference books and other educational materials from volunteer organizations that operate the following types of programs: literacy and education, life skills, job skills, drug and alcohol rehabilitation, support group, arts and crafts, and any other program designed to aid offenders in the transition between confinement and society and to reduce recidivism, regardless of whether the organization provides those programs to offenders assigned to units operated by the TDCJ. These reference books and educational materials shall comply with content requirements contained in this policy.

II. Special and Media Correspondence

A. Permissible Correspondence

Offenders may send sealed and uninspected letters directly to special and media correspondents. All incoming correspondence from any special or media correspondent shall be opened and inspected only for contraband, except under the special circumstances noted in these rules. The inspection shall be in the offender's presence. All incoming special correspondence envelopes shall be prominently stamped as received by the TDCJ or cancelled so that postage-free government envelopes cannot be reused.

B. Exceptions

In individual cases, where reasonable suspicion exists to believe the correspondence rules or the law is being violated, incoming or outgoing special or media correspondence may be opened and inspected for contraband and content upon obtaining written permission of the Correctional Institutions Division (CID) director or designee.

III. Legal Correspondence

A. Permissible Correspondence

In order to facilitate the attorney-client privilege, an offender may send sealed and uninspected letters directly to legal correspondents. No correspondence from an offender to any legal correspondent shall be opened or read. All incoming correspondence from any legal correspondent shall be opened and inspected for contraband only. The inspection shall be in the offender's presence. No correspondence to an offender from any legal correspondent shall be read.

B. Exceptions

When an offender violates the law or the correspondence rules using legal correspondence, the offender may have legal mail privileges suspended except to the offender's attorney of record, upon obtaining written permission of the CID director or designee. The attorney of record must submit a written statement naming them as the attorney of record for the offender. The CID director shall approve the restriction of legal correspondence privileges.

IV. Handling Offender Correspondence

A. Content Inspection of General Correspondence

All general correspondence shall be subject to the right of inspection and rejection by unit mailroom staff. All outgoing or incoming letters to and from offenders and enclosures such as clippings, photographs, or similar items, shall be disapproved for mailing or receipt if the content falls as a whole, or in significant part, into any of the categories listed below:

1. Contains threats of physical harm against any person or place or threats of criminal activity;
2. Threatens blackmail or extortion;
3. Concerns sending contraband in or out of the institution;
4. Concerns plans for escape or unauthorized entry;
5. Concerns plans for activities in violation of institutional rules;
6. Concerns plans for future criminal activity;
7. Uses code and its contents are not understood by the person inspecting the correspondence;

8. Solicits gifts of goods or money under false pretenses or for payment to other offenders;
9. Contains a graphic presentation of sexual behavior that is in violation of the law;
10. Contains a sexually explicit image;
11. Contains an altered photo;
12. Contains information, which if communicated, would create a clear and present danger of violence or physical harm to a human being; or
13. Contains records or documentation held by the TDCJ that are not listed in the attachment to the TDCJ *Public Information Act Manual* Chapter 2.

B. Contraband in General Correspondence

If contraband is found in an incoming letter or publication, the contraband shall be removed from the letter or publication, if possible. If the contraband cannot be removed from the letter or publication, the letter or publication shall not be delivered to the offender.

C. Contraband in Legal, Media, or Special Correspondence

If an enclosure constituting contraband is found, the contraband shall not be delivered to the offender.

D. Notices

The offender and the sender or addressee shall be provided a written statement of the disapproval and a statement of the reason for disapproval within three business days after receiving the correspondence. The notice shall be given on Correspondence Denial Forms. The offender shall be given a sufficiently detailed description of the rejected correspondence to permit effective use of the appeal procedures. The offender, sender, or addressee may appeal the mailroom staff's decision through the procedures outlined in this policy. The offender or sender may submit a written argument as to why the item should not be denied for the DRC's consideration.

E. Record of Legal, Special, and Media Correspondence

The mailroom shall maintain records showing the source and destination of all incoming and outgoing legal, special, and media correspondence.

F. Content Inspection of Publications

All publications are subject to inspection by the MSCP and by unit staff. The MSCP has the authority to accept or reject a publication for content, subject to review by the DRC. The MSCP shall render decisions on publications reviewed within two weeks of receipt at the MSCP office. Unit mailroom staff shall review books not previously reviewed and render a decision within two weeks of receipt at the mailroom. Offenders do not have to be notified when magazines or books are being held for review. Publications shall not be rejected solely because the publication advocates the legitimate use of offender grievance procedures, urges offenders to contact public representatives about prison conditions, or contains criticism of prison authorities.

1. Rejection Due to Content

A publication may be rejected if:

- a. It contains contraband that cannot be removed;
- b. It contains information regarding the manufacture of explosives, weapons, or drugs;
- c. It contains material that a reasonable person would construe as written solely for the purpose of communicating information designed to achieve the breakdown of prisons through offender disruption such as strikes, riots, or STG activity;
- d. A specific determination has been made that the publication contains graphic presentations of sexual behavior that is in violation of the law, such as rape, incest, sex with a minor, bestiality, necrophilia, or bondage;
- e. It contains sexually explicit images. Publications shall not be prohibited solely because the publication displays naked or partially covered buttocks. Subject to review by the MSCP and on a case-by-case basis, publications constituting educational, medical, scientific, or artistic materials, including, but not limited to, anatomy medical reference books, general practitioner reference books or guides, *National Geographic*, or artistic reference material depicting historical, modern, or post modern era art, may be permitted; or
- f. It contains material on the setting up and operation of criminal schemes or how to avoid detection of criminal schemes by lawful authorities charged with the responsibility for detecting such illegal activity.

2. Notice

If a publication is rejected, the offender and sender shall be provided a written notice of the disapproval and a statement of the reason for disapproval within three business days of receipt of the publication or MSCP denial date on a Publication Denial Form, along with the procedures to appeal. The offender shall be given a sufficiently detailed description of the rejected publication to permit effective use of the appeal procedures. The offender or sender may appeal the rejection of the publication through procedures outlined in this policy. Publications approved by MSCP shall be delivered to offenders within three business days.

3. List of Disapproved Publications

A list of publications disapproved for receipt by offenders during the last two months shall be noted on the Law Library Holdings List at each institution. The list shall be updated every month.

G. Processing Incoming and Outgoing Offender Mail

All mail and e-messages, including delivery, pick-up, or notifications, shall be processed by TDCJ employees or privately-operated facility staff only and during normal business hours whenever possible. An offender shall not handle another offender's mail, except to assist staff when loading and unloading mail in bulk deliveries. Staff shall maintain direct supervision of these offenders.

All incoming mail, except packages, shall be delivered within two business days of receipt, except on weekends or holidays. Incoming packages shall be delivered within three business days of receipt, except on weekends or holidays.

All outgoing mail, except packages, shall be delivered to a USPS employee within two business days, except on weekends or holidays. Outgoing packages shall be delivered to a USPS employee within three business days, except on weekends or holidays.

Records shall be maintained to indicate the source and destination of outgoing mail from death row offenders.

Exception: Incoming and outgoing mail for offenders whose mail is being monitored may be processed within three business days of receipt, if necessary, to allow unit staff to properly examine the correspondence.

H. Forwarding of Mail

Mail received shall be forwarded to an offender immediately in the event the offender has left the unit and a forwarding address is available. Newspapers shall

be forwarded by truck mail for seven days and other subscriptions shall be forwarded by truck mail for 45 days after an offender is transferred between TDCJ institutions, if truck mail is available between the two institutions. Should an offender leave the unit of assignment for temporary medical treatment, correspondence, newspapers, and magazines shall be held by the unit mailroom until the offender returns.

I. Mailrooms

All unit mailrooms shall be open and provide mail service Monday through Friday, except on holidays recognized by the USPS.

J. Treatment Programs

The Substance Abuse Treatment Program, the Sex Offender Treatment Program, the COURAGE Program for youthful offenders, and other treatment programs, as approved by the CID director and the Rehabilitation Programs Division director and maintained by the MSCP, may have more restrictive content-based requirements for general correspondence and publications, as long as those more restrictive requirements are directed at the treatment goals and needs of the treatment program or serve to keep the agency in compliance with established laws governing access to certain types of publications by minors..

V. Review Procedures for Denied Items

A. Handling of Denied Items

Any incoming or outgoing correspondence or publications that are rejected shall not be destroyed, but shall remain with the mailroom staff subject to examination and review by those involved in the administration of the appeal procedures outlined herein. Upon completion of the appeal procedures, if the correspondence or publication is denied, the offender may request that it continue to be held in the custody of the mailroom staff for use in any legal proceeding contemplated by the offender, or that it be disposed of in one of the following manners, unless security concerns mandate that the offender not have a choice in the disposition:

1. Mail the publication or correspondence to any person at the offender's expense; or
2. Destroy the publication or correspondence, only with the offender's written permission.

B. Correspondence and Publication Appeal Procedure

Any offender, other correspondent, or sender of a publication may appeal the rejection of any correspondence or publication. They may submit written evidence or arguments in support of their appeal. An offender or a correspondent

may appeal the placement of the correspondent on the offender's negative mailing list. An offender or a correspondent may appeal to the DRC for reconsideration of the negative mailing list placement after six months.

1. Appeal Procedures

A written notice of appeal, including justification, shall be sent to the DRC within two weeks of notification of rejection. Upon receipt of notification, the correspondence or publication in question shall be sent to the DRC.

2. Final Decision

The DRC shall render its decision within two weeks after receiving the appeal, and shall issue written notification of the decision to the parties involved within two business days.

3. Delegation

The DRC chairman may delegate decisions regarding correspondence and publication denials to the MSCP, which shall be governed by the guidelines applicable to the DRC regarding appeals.

Oliver J. Bell, Chairman^{*}
Texas Board of Criminal Justice

^{*} Signature on file