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ATTN: Kim DeBien  
Jim Smith  
IRRC

DATE: August 17, 2001

CC: Syndi Guido  
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OGC

FAX NO: 717-783-2664  
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RE: *Comment Response Document*

PAGE(S): 21

URGENT: No

HARD COPY TO FOLLOW: No

MESSAGE: Please find attached the Department's Comment Response Document and Revised Annex A for your informational review. Thank you for your assistance.

FROM: Tracey M. McCullough for  
Jill C. Fluck, Assistant Counsel

FAX NO: 717-975-2217

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**COMMENT RESPONSE DOCUMENT**

The following responses are made to the comments of the Independent Regulatory Review Commission. Only one public comment was received. That comment, from the Pennsylvania Prison Wardens Association, is addressed in the response to comment in section 2 below.

**1. Section 91.1. Definitions. - Clarity.****COMMENT:*****Department***

This defined term is not used consistently in Chapter 93. For example, Section 93.6(a) contains three references and Section 93.9(a) contains two references to the "Department of Corrections." Section 93.10(a) and Section 93.11(b) also refer to the "Department of Corrections." These references should be replaced with the defined term "Department."

**RESPONSE:**

References to Department of Corrections have been changed to Department. Response to this comment has required changes to sections that were not previously being amended by the Department in this proposal.

**COMMENT:*****Facility and Institution***

The distinction between these two terms is not clear from the definitions. The Department should determine which term will be retained and delete the other term from this section.

Further, the retained term should be used consistently throughout Chapters 91 and 93. For example, Section 93.2(c)(1)(i)(B) as printed in the *Pennsylvania Bulletin*, refers to "State correctional institution." This reference should be changed to the defined term of "institution" or "facility." Also, Sections 93.2(c)(1)(i)(D) and 93.2(c)(1)(ii) should refer to "facility" (the defined term) rather than "State correctional facility."

**RESPONSE:**

The broader term "facility" will be used whenever possible and the definitions of facility, facility manager and institution are revised as follows.

*Facility*—An institution, motivational boot camp or community corrections center operated by the Department.

*Facility Manager*—The chief administrator of a facility, that is, the superintendent of an institution, the commander of a motivational boot camp, or the director of a community corrections center.

*Institution*—A state correctional institution or regional correctional facility operated by the [Bureau] Department.

Response to this comment has required changes to sections that were not previously being amended by the Department in this proposal.

**COMMENT:**

***Facility Manager***

This term is also not used consistently in Chapter 93. For example, Sections 93.3(a), (d) and (h)(7) and Section 93.6(b)(1) all refer to "superintendent" instead of the defined term "facility manager." This should be corrected in the final-form regulation.

**RESPONSE:**

References to Superintendent have been changed to Facility Manager. Response to this comment has required changes to sections that were not previously being amended by the Department in this proposal.

**COMMENT:**

***Regional director***

As printed in the *Pennsylvania Bulletin*, this definition uses the term "corrections centers" rather than the defined term "community corrections centers." This should be corrected in the final-form regulation.

**RESPONSE:**

The *Pennsylvania Bulletin* staff made this change. The final-form regulation will correct this.

**2. Section 91.3. Reception and discharge of inmates. - Clarity.**

**COMMENT:**

The last sentence states, "To ensure compliance with State and Federal laws, it is expected the discharge process can be completed within 2 business days." We have two concerns.

First, it is unclear which state and federal laws must be complied with. Specific citations should be added.

Second, is compliance with these laws required, rather than expected? If compliance is required, then it would be appropriate to state, "...the discharge process shall be completed within 2 business days."

**RESPONSE:**

There is no law that requires the discharge process to be completed in two days. The reference here was to various legal issues that can arise prior to a release such as DNA collection or detainers from other states. This language has been deleted, as those laws do not need to be referenced in the Department's regulations. A comment was also received from Vincent A. Guarini, Chairman of the Legislative Committee of the Pennsylvania Prison Wardens Association. He suggested the term "sufficient" be deleted and replaced with a reference to Act 84 of 1998, which sets forth what specific information shall be provided. This change has been made. See replacement language below:

The [Bureau] Department will accept and confine those persons committed to it under lawful court orders which conform to 42 Pa.C.S. § 9762 (relating to sentencing proceeding; place of confinement) when information has been provided to the Department as required by Act 84 of 1998, 42 Pa.C.S. §9764. The [agency] Department will also accept persons for whom transfer from other correctional facilities has been approved in advance by the [Commissioner or Deputy Commissioner of Correction] Secretary or a designee, under [the act of March 24, 1921 (P. L. 48, No. 23) (61 P. S. § § 78-80) and] section 1 of the act of July 11, 1923 (P. L. 1044, No. 425) (61 P. S. § [§] 72[-77a]). Commitments and transfers will be accepted only during the [institution's] facility's normal business hours, except upon prior approval of the [Superintendent] facility manager or [his] a designee. Orders discharging an inmate will be processed during normal business hours. In most cases the discharge process will be completed within 2 business days.

**3. Section 91.4. Catchment areas. - Clarity.**

**COMMENT:**

In Subsections (a) and (b), how will a person know what facilities are specifically designated? Does the Department publish a list?

In Subsection (c), the words "of the Department" should be deleted since the defined term is "Secretary."

**RESPONSE:**

The Department will notify counties of any change in its current practice. The Department has a Deputy Secretary for Intergovernmental Relations who will coordinate any changes with the counties. The words "of the Department" have been deleted from Subsection (c).

**4. Section 93.2. Inmate correspondence. - Clarity.****COMMENT:*****Subsection (c) Incoming mail***

This subsection is unclear. We have four concerns.

First, the opening paragraph discusses both "all incoming mail" and "sealed documents." Since the standards for opening these documents differ, their respective requirements should be placed in separate subsections or paragraphs.

Second, the order of the sentences is confusing. A sentence in the middle of the subsection references the requirements listed in Paragraphs (c)(1) to (3). Whereas, the concluding sentence refers to Subsection (e) relating to "Scrutiny of correspondence."

Third, the last sentence states "They may be read only as set forth in Subsection (e)." Does "they" refer to "sealed" or "retained" documents?

Fourth, the last sentence does not specify who is reading the documents. This could be interpreted to also require the inmate readers of documents to comply with Subsection (e) rather than just the institution as specified in Subsection (e). Also, who in the institution is authorized to read the inmates' mail? This should be clarified in the regulation.

**RESPONSE:**

This section has been rewritten to clarify that there is a distinction between mail sent to a facility and mail sealed pursuant to the requirements of this section. The cross-reference to section (e) has been deleted as it relates to reading rather than opening of mail.

**(c) Incoming mail. [Incoming] All mail sent to a facility, regardless of its source, will be opened and examined for contraband in the facility's mailroom or other area designated by the Facility Manager for the examination of mail, unless it is sealed pursuant to subsection (1) below.**

**(1) Due to prison security concerns, limited staff resources and the availability of alternate means for confidential communications, the Department will permit sealed**

mail to be opened in the presence of an inmate only in the following very limited circumstances:

(i) an attorney unable to communicate through alternate means for confidential communication may hand deliver, in person or by an authorized representative of the attorney's office, documents for sealed delivery to an inmate.

(A) The person making the delivery must present valid identification and information sufficient to allow facility staff to verify that the person is an attorney or is an authorized representative of an attorney.

(B) The person shall present unsealed and unbound documents to designated staff at any facility during times established by the facility.

(C) The documents will be searched for contraband in the presence of the person presenting them.

(D) The documents will then be sealed in that person's presence for delivery to an inmate at any facility where they will be opened in the presence of the inmate and searched for contraband.

(ii) Under no circumstance will documents filed in a court of public record (other than those sealed by court order) be required to be opened in the presence of an inmate. Any court may direct by specific order that court documents sealed from public disclosure be delivered sealed to an inmate to be opened in the inmate's presence. A court representative shall deliver such sealed documents to any facility along with a copy of the specific order requiring sealed delivery.

**COMMENT:**

*Subsection (c)(2)*

This subsection defines "contraband" by stating "Coins, currency or other negotiable instruments concealed in correspondence are contraband..." This language should be removed from this section and the term "contraband" should be defined in Section 91.1.

**RESPONSE:**

The term contraband has been defined in the definition section as follows:

Contraband – All material defined as contraband in 18 Pa.C.S. §§ 5122 and 5123 or in any Department policy that is disseminated to inmates. The term shall also include any item that an inmate or resident is not permitted to possess while confined in the custody of the Department pursuant to Department policy that is disseminated to inmates.

**COMMENT:*****Subsection (c)(3)***

This subsection states "Other contraband will be returned to the sender, destroyed or transferred...." What qualifies as "other contraband"? Further, it is not clear under what circumstances the contraband will be returned, destroyed or transferred.

**RESPONSE:**

Subsections (c)(2) and (c)(3) have been revised to clarify what will be done with contraband. It is not possible to further clarify under what circumstances contraband will be returned, destroyed or transferred because of the multitude of types of contraband that are received. The Department believes that the regulation provides the public with adequate notice of what items constitute contraband and that it is possible that any contraband that they send to a facility may be destroyed or transferred to a criminal justice agency.

(2) Contraband in the form of money orders, certified checks, cash or other negotiable instruments will be recorded indicating the nature of the receipt, the sender, the amount received and the date. Personal checks, unless certified, will be returned to the sender. The institution is not responsible for cash sent through the mails. [Letters containing contraband may be held for further inspection and disposition. Coins, currency or other negotiable instrument concealed in correspondence is contraband and will be confiscated.] Confiscated coins and currency will be deposited in the [Inmates'] Inmate General Welfare Fund.

(3) Other contraband will be returned to the sender, destroyed or transferred to appropriate criminal justice agencies as appropriate depending on the nature of the material.

**COMMENT:*****Subsection (c) (sic) Scrutiny of correspondence***

Subsections (1) and (2) are vague. We have three questions.

First, under what circumstances "may" the institution read the mail in Subsection (1)?

Second, and similar to the comment on Section 93.2(c), who in the institution does the Department permit to read the inmates' mail?

Third, do these subsections refer to outgoing or incoming correspondence or mail or both?

**RESPONSE:**

Subsection (e) has been revised to state who may read mail, to elaborate under what circumstances mail may be read and to clarify that this subsection applies to both incoming and outgoing mail. The revised language is as follows.

(e) *Scrutiny of correspondence.*

- (1) [The institution] The facility manager or a designee may read [nonprivileged] incoming or outgoing mail upon the approval of the [Superintendent when there is a reason to believe that security may be impaired or that this section is being abused] facility manager when there is reason to believe that that it may reveal or discuss illegal or unauthorized activity or for reasons set forth in any Department policy that is disseminated to inmates.
- (2) [The institution] The facility manager or a designee may read [privileged] mail sealed in accordance with section (c)(1), only upon the written order of the [Superintendent] facility manager with the written approval of the [Commissioner of Corrections] Secretary when there is reason to believe that there is a threat to institutional security[, ] or criminal activity[, or this section is being abused].

**COMMENT:*****Subsection (f) Incoming publications***

Paragraph (1) defines "publications." This term should be defined in Section 91.1.

Paragraph (2) provides that "all publications must be received from the original source." Since a magazine is included in the definition of "publications," the sentence in Paragraph (3) that states that "magazines shall be mailed directly from the original source" is redundant and should be deleted.

Paragraph (5) states publications "sent directly ... will *usually be deemed* to have come from the original source." We have two questions. First, who is responsible when this section states "will usually be deemed"? Deemed by whom? Second, under what circumstances would be publication not "be deemed" to be from the original source?

Paragraph (6) states that newsletters "shall be delivered to the inmate even if mailed at less tha[t] (sic) first or second-class mail rates." The phrase in Paragraph (6) is redundant and should be deleted because Paragraph (1) provides for newsletters "regardless of the postal rate ...."

We have two questions relating to Paragraph (7). First, the paragraph states "publications containing *potentially prohibited material* or *questionable content* ..." The language in this sentence is vague as it is not clear what is meant by "potentially prohibited material" or "questionable content." Second, Paragraph (7) refers to an "incoming publication



review committee (IPRC)." Who are the members of this committee and to whom does it report?

For clarity, Paragraph (12) should be merged with Paragraph (9).

Paragraph (13) allows for appeal of an IPRC decision. It appears the right to appeal applies to IPRC decisions regarding all inmate correspondence. Therefore, this provision should be a separate subsection and a specific reference to Department policy or regulations relating to grievances should be included.

#### RESPONSE:

The definition of publication has been moved to the definition section. The reference to original source in revised (1) below has been clarified and the reference to that term in former paragraph (5) (4 below) has been deleted. The words "from the publisher" have been added. The language in former paragraph (6) (5 below) regarding the postal rate has been deleted. Former paragraph (7) (6 below) has been revised to refer to paragraph (8) and Department policy disseminated to inmates defining what constitutes prohibited material or material with questionable content. The membership and authority of the Incoming Publication Review Committee has been clarified. Former paragraph (12) has been merged with former paragraph (9) (8 below). The reference to an appeal in former paragraph 13 has been removed as it is redundant to §93.9. It was also confusing because it does not apply to all complaints about inmate correspondence as suggested in the Commission's comment.

- (1) All publications must be received directly from the original source such as a publisher, bookstore, book club, distributor or department store.
- (2) Covers of hardbound publications may be damaged through examination or removed where inspection of the cover is deemed necessary and no reasonable available alternative form of inspection is adequate.
- (3) Small letter sized pamphlets may be received in regular correspondence.
- (4) Newspapers must be mailed directly to the facility from the publisher.
- (5) Newsletters and other mail from recognized nonprofit religious and charitable organizations, when addressed to an individual inmate shall be delivered to the inmate.
- (6) Publications containing potentially prohibited material or questionable content, or both, pursuant to paragraph 8 below or Department policy disseminated to inmates will be reviewed by an incoming publication review committee (IPRC) consisting of staff members designated by and reporting to the facility manager or a designee.
- (7) The IPRC will determine whether written or printed material is a publication.
- (8) Publications may be disapproved that contain information regarding the manufacture of explosives, incendiaries, weapons, escape devices or other contraband, instructions regarding the ingredients or manufacture of poisons, drugs or intoxicating beverages, writings which advocate violence, insurrection or guerrilla warfare against the government or any of its

institutions or which create a clear and present danger within the context of the correctional facility, materials which are obscene as that term is defined in 18 Pa.C.S. § 5903 (relating to obscene and other sexual materials and performances or which portray, depict or expressly encourage violent or assaultive sexual conduct or involuntary deviant sexual conduct, or writings which advocate, assist or are evidence of criminal activity or misconduct. The criteria in this paragraph should not be interpreted so broadly as to require disapproval of recognized textbooks in chemistry, physics or the social sciences.

- (9) Under 18 Pa. C.S. §5903, the Department will not distribute any obscene or explicit sexual materials to inmates under 18 years of age.
- (10) A publication will not be prohibited solely on the basis that the publication is critical of penal institutions in general, of a particular institution, of a particular institutional staff member, of an official of the Department, or of a correctional or penological practice in this or any other jurisdiction.
- (11) An inmate may receive more than one copy of any publication only with the approval of the IPRC.

**COMMENT:**

***Subsection (g)***

We have three concerns relating to this section. First, as printed in the *Pennsylvania Bulletin*, this subsection does not have a heading.

Second, how did the Department determine that it is reasonable to retain a rejected letter for "at least 7 days" as opposed to 10 days or 30 days? Is it seven business or calendar days?

Third, how soon must a protest be filed?

**RESPONSE:**

It has been decided that this section will remain in subsection (e)(3) regarding scrutiny of correspondence. It is the current regulation and is not being changed.

**5. Section 93.7. Telephone calls. - Clarity.**

**COMMENT:**

This section contains the phrase, "in accordance with applicable law." What is the applicable law? If there are none, this phrase should be deleted. Otherwise, to facilitate compliance and improve clarity, this phrase should be replaced with a specific reference to the applicable laws and regulations.

**RESPONSE:**

A cite to the applicable statute has been added.

ANNEX A  
TITLE 37. LAW  
PART III. AGENCIES AND OFFICES  
Subpart B. DEPARTMENT OF CORRECTIONS  
CHAPTER 91. ADMINISTRATION

§ 91.1. Definitions.

The following words and terms, when used in this subpart, shall have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

[Bureau—Pennsylvania Bureau of Corrections.]

Center [Director] director—[Administrator] An administrator of a [Bureau] Department of Corrections Community [Service] Corrections Center.

Community [Service Center] corrections center—A minimum security community-oriented facility operated by the [Bureau] Department for the purpose of facilitating special programs.

Contraband – All material defined as contraband in 18 Pa.C.S. §§ 5122 and 5123 or in any Department policy that is disseminated to inmates. The term shall also include any item that an inmate or resident is not permitted to possess while confined in the custody of the Department pursuant to Department policy that is disseminated to inmates.

Department—The Pennsylvania Department of Corrections.

Diagnostic and [Classification Center]classification center—Facilities [located within some State correction institutions,] designated to receive and classify persons who have been [transferred] committed to the custody of the [Bureau] Department.

Facility—An institution, motivational boot camp or community corrections center operated by the Department.

Facility Manager—The chief administrator of a facility, that is, the superintendent of an institution, the commander of a motivational boot camp, or the director of a community corrections center.

Inmate—A person committed to the custody of or confined by the [Bureau] Department.

Institution—A state correctional institution or regional correctional facility operated by the [Bureau] Department.

Publications – All printed material that is circulated for the public conveying information or to which the inmate is entitled under State or Federal law or the Pennsylvania or United States Constitutions. This includes newspapers, magazines, hardcover or paperback books, pamphlets and newsletters, regardless of postal rate, that are not specifically intended for the purpose of advertising or selling merchandise.

Regional [Director] director—The supervisor of a group of [Community Service] corrections centers.

Resident—An inmate assigned to a [Community Service Center] community corrections center.

Secretary—The Secretary of the Department.

Special Housing—Housing units, that is, restricted housing units, special management units, long term segregation units, and the like, operated to house inmates who require specialized services or a higher level of supervision than provided in general population housing.

[*Superintendent*—The chief administrator of an institution.]

#### § 91.2. Agency purpose.

It is the goal of the [Bureau] Department to [operate its institutions and programs so as to provide protection to the community, a safe and humane environment and opportunities for rehabilitation for the inmates] protect the public by confining persons committed to the Department's custody in safe, secure facilities, and to provide opportunities for inmates to acquire the skills and values necessary to become productive law-abiding citizens, while respecting the rights of crime victims.

#### § 91.3. Reception and discharge of inmates.

The [Bureau] Department will accept and confine those persons committed to it under lawful court orders which conform to 42 Pa.C.S. § 9762 (relating to sentencing proceeding; place of confinement) when information has been provided to the Department as required by Act 84 of 1998, 42 Pa.C.S. §9764. The [agency] Department will also accept persons for whom transfer from other correctional facilities has been approved in advance by the [Commissioner or Deputy Commissioner of Correction] Secretary or a designee, under [the act of March 24, 1921 (P. L. 48, No. 23) (61 P. S. § § 78-80) and] section 1 of the act of July 11, 1923 (P. L. 1044, No. 423) (61 P. S. § [§] 72[-77a]). Commitments and transfers will be accepted only during the [institution's] facility's normal business hours, except upon prior approval of the [Superintendent] facility manager or [his] a designee. Orders discharging an inmate will be processed during normal business hours. In most cases the discharge process will be completed within 2 business days.

#### § 91.4. Catchment areas.

(a) Male inmates committed to the custody of the [Bureau from the following counties] Department will be received at [the Eastern Diagnostic and Classification Center at the State Correctional Institution at Graterford: Berks, Bucks, Carbon, Chester, Delaware, Lackawanna, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Philadelphia, Pike, Schuylkill and Wayne] facilities designated as diagnostic and classification centers for male inmates.

(b) [Male inmates committed to the custody of the Bureau from the following counties will be received at the Central Diagnostic and Classification Center at the State Correctional Institution at Camp Hill: Adams, Bedford, Blair, Bradford, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Sullivan, Susquehanna, Tioga, Union, Wyoming and York.

(c) Male inmates committed to the custody of the Bureau to serve terms of confinement less than 2 years from the following counties will be received at the State Regional Correctional Facility at Greensburg: Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Washington and Westmoreland.

(d) Male inmates committed to the custody of the Bureau to serve terms of confinement less than 2 years from the following counties will be received at the State Regional Correctional Facility at Mercer: Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Potter, Venango and Warren.

(e) Male inmates committed to the Bureau from the following counties will be received at the

Western Diagnostic and Classification Center at the State Correctional Institution at Pittsburgh: Allegheny, Armstrong, Beaver, Butler, Cambria, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Potter, Somerset, Venango, Warren, Washington and Westmoreland.

(f) Female inmates committed to the [Bureau] Department will be received at [the State Correctional Institution at Muncy] facilities designated as diagnostic and classification centers for female inmates.

[g] (c) The [Deputy Commissioner] Secretary [of Correction] or a designee may grant permission for an inmate to be received at [an institution] a facility other than as designated in subsections (a)–(f) and (b).

### CHAPTER 93. STATE CORRECTIONAL INSTITUTIONS AND FACILITIES

#### § 93.1. General.

Those portions of some Department [of Corrections] directives and policy statements which concern the interaction of Department [of Corrections] inmates and employees with the community at large are published. Full text of the directives and other policy statements are maintained in [the institutions and] all Department facilities.

#### § 93.2. Inmate correspondence.

\* \* \* \* \*

(b) *Restrictions.* The following restrictions apply:

(1) Correspondence with inmates of other [institutions] facilities, former inmates, probationers or victims of the criminal acts of the inmate will not be permitted except upon special approval of the [Superintendent] facility manager.

\* \* \* \* \*

(5) Mail addressed to an inmate organization will not be accepted unless the facility manager has approved the organization and the name of a member of the organization is included in the address.

(c) *Incoming mail.* [Incoming] All mail sent to a facility, regardless of its source, will be opened and examined for contraband in the facility's mailroom or other area designated by the Facility Manager for the examination of mail, unless it is sealed pursuant to subsection (1) below.

(1) Due to prison security concerns, limited staff resources and the availability of alternate means for confidential communications, the Department will permit sealed mail to be opened in the presence of an inmate only in the following very limited circumstances:

(i) an attorney unable to communicate through alternate means for confidential communication may hand deliver, in person or by an authorized representative of the attorney's office, documents for sealed delivery to an inmate.

(A) The person making the delivery must present valid identification and information sufficient to allow facility staff to verify that the person is an attorney or is an authorized representative of an attorney.

(B) The person shall present unsealed and unbound documents to designated staff at any facility during times established by the facility.

(C) The documents will be searched for contraband in the presence of the person presenting them.

(D) The documents will then be sealed in that person's presence for delivery to an inmate at any facility where they will be opened in the presence of the inmate and searched for contraband.

(ii) Under no circumstance will documents filed in a court of public record (other than those sealed by court order) be required to be opened in the presence of an inmate. Any court may direct by specific order that court documents sealed from public disclosure be delivered sealed to an inmate to be opened in the inmate's presence. A court representative shall deliver such sealed documents to any facility along with a copy of the specific order requiring sealed delivery.

(2) Contraband in the form of money orders, certified checks, cash or other negotiable instruments will be recorded indicating the nature of the receipt, the sender, the amount received and the date. Personal checks, unless certified, will be returned to the sender. The [institution] facility is not responsible for cash sent through the mails. [Letters containing contraband may be held for further inspection and disposition. Coins, currency or other negotiable instrument concealed in correspondence is contraband and will be confiscated.] Confiscated coins and currency will be deposited in the [Inmates'] Inmate General Welfare Fund.

(3) Other contraband will be returned to the sender, destroyed or transferred to appropriate criminal justice agencies as appropriate depending on the nature of the material.

(d) *[Privileged correspondence.*

(1) Correspondence, which is marked as described in paragraph (2) to and from the following persons should be considered privileged:

(i) Elected or appointed Federal, State or local officials.

(ii) Attorneys.

(2) Privileged correspondence must be clearly marked on the envelope with the name and title of the privileged correspondent. Only privileged correspondence may be so marked.

(3) Privileged correspondence received by the institution will be delivered to the housing unit officer and opened by the officer in the presence of the addressee. It will be checked for contraband.]

Outgoing mail. Sealed outgoing mail from an inmate will not be searched except as set forth in subsection (e).

(e) *Scrutiny of correspondence.*

(1) [The institution] The facility manager or a designee may read [nonprivileged] incoming or outgoing mail upon the approval of the [Superintendent when there is a reason to believe that security may be impaired or that this section is being abused] facility manager when there is reason to believe that it may reveal or discuss illegal or unauthorized activity or for reasons set forth in any Department policy that is disseminated to inmates.

(2) [The institution] The facility manager or a designee may read [privileged] mail sealed in accordance with section (c)(1), only upon the written order of the [Superintendent] facility manager with the written approval of the [Commissioner of Corrections] Secretary when there is reason to believe that there is a threat to institutional security[,] or criminal activity[, or this section is being abused].

(3) An item of correspondence which appears to violate this section may be reviewed by the [institution] facility. The inmate and the sender, in cases where the inmate is not the sender, will be notified when the letter is rejected. The letter may be held for at least 7 days after mailing of the notification to permit reasonable opportunity to protest the decision. If the letter is rejected, it will be returned to the sender.

(f) *[Inmate organizations. Mail addressed to an inmate organization will not be accepted unless the organization has been approved by the Superintendent and the name of a member of the organization is included in the address.] Incoming publications.*

(1) All publications must be received directly from the original source such as a publisher, bookstore, book club, distributor or department store.

(2) Covers of hardbound publications may be damaged through examination or removed where inspection of the cover is deemed necessary and no reasonable available alternative form of inspection is adequate.

(3) Small letter sized pamphlets may be received in regular correspondence.

(4) Newspapers must be mailed directly to the facility from the publisher.

(5) Newsletters and other mail from recognized nonprofit religious and charitable organizations, when addressed to an individual inmate shall be delivered to the inmate.

(6) Publications containing potentially prohibited material or questionable content, or both, pursuant to paragraph 8 below or Department policy disseminated to inmates will be reviewed by an incoming publication review committee (IPRC) consisting of staff members designated by and reporting to the facility manager or a designee.

(7) The IPRC will determine whether written or printed material is a publication.

(8) Publications may be disapproved that contain information regarding the manufacture of explosives, incendiaries, weapons, escape devices or other contraband, instructions regarding the ingredients or manufacture of poisons, drugs or intoxicating beverages, writings which advocate violence, insurrection or guerrilla warfare against the government or any of its institutions or which create a clear and present danger within the context of the correctional facility, materials which are obscene as that term is defined in 18 Pa.C.S. § 5903 (relating to obscene and other sexual materials and performances or which portray, depict or expressly encourage violent or assaultive sexual conduct or involuntary deviant sexual conduct, or writings which advocate, assist or are evidence of criminal activity or misconduct. The criteria in this paragraph should not



be interpreted so broadly as to require disapproval of recognized textbooks in chemistry, physics or the social sciences.

(9) Under 18 Pa. C.S. §5903, the Department will not distribute any obscene or explicit sexual materials to inmates under 18 years of age.

(10) A publication will not be prohibited solely on the basis that the publication is critical of penal institutions in general, of a particular institution, of a particular institutional staff member, of an official of the Department, or of a correctional or penological practice in this or any other jurisdiction.

(11) An inmate may receive more than one copy of any publication only with the approval of the IPRC.

### § 93.3. Inmate Visiting Privileges.

(a) *Approved list of visitors.* A list of approved visitors may contain up to 20 names. Inmates who can show that they have more than 20 regular visitors may be permitted to add additional names to their approved lists. Members of a family living at the same address may be counted as one name. Except for members of an inmate's immediate family, a minor's name may be placed on the approved list only with permission of the minor's parents or guardian. Children under 12 years of age may visit only when accompanied by an adult and need not be placed separately on the official list. A person may not be on more than one inmate's visiting list except in cases where the person is part of the immediate family of more than one inmate, unless special permission is granted by the [Superintendent] Facility Manager. Changes or additions to the approved list may be made in accordance with established procedures. The name of a visitor may be removed for good cause upon authorization by the [Superintendent] Facility Manager.

\* \* \* \* \*

(c) *Attorneys.*

\* \* \* \* \*

(2) An attorney who has been designated by an inmate as his legal advisor may permit persons, such as law students or investigators to visit the inmate to act as the attorney's agents. Each person shall present to the [institution] facility at the time of the visit a written statement signed by the attorney on the letterhead of his firm identifying each person as the attorney's agent and attesting that the visit is for the purpose of a legal consultation.

\* \* \* \* \*

(d) *Former inmates.* A former inmate may visit only with special permission of the [Superintendent] Facility Manager.

(e) *Prerelease inmates.* Inmates in prerelease status may visit other inmates only with the approval of the [Deputy Commissioner of Corrections] Secretary or a designee. Application for permission to visit shall be made by both inmates through their respective [Superintendents or Center Directors] Facility Managers.

(f) *Registering of visitors.* Visitors shall register in and out of the [institution] facility.

\* \* \* \* \*

(h) *Number, time and place of visits.* Inmates shall be permitted to have visits as often as the situation at the [institution] facility will allow.

\* \* \* \* \*

(7) *Special visit.* Provisions will be made for the approval of a special visit by persons who may not be on the approved list who have come a substantial distance and for a family visit to a seriously ill or injured inmate. Special visits will be approved only by the [Superintendent or Deputy Superintendent] Facility Manager or a designee. Absent this approval, only those persons on the approved visiting list may visit.

(i) *Restriction of visitation privileges.*

(1) If a visit is a threat to the security and order of the [institution] facility, the visit may be terminated or disallowed.

\* \* \* \* \*

(3) A visitor who cannot produce identification or who falsifies [identifying] identifying information will not be allowed in the [institution] facility.

\* \* \* \* \*

(5) Restriction of visiting privileges will not be used as a disciplinary measure for an unrelated [institutional] facility rule infraction. However, visitation privileges may be restricted as a result of changes in housing or program status made as a result of unrelated infractions.

\* \* \* \* \*

(j) *Media representatives.* Media representatives will have the same visiting privileges as visitors on an inmate's approved list of visitors as described in Department [of Corrections' (Department)] policy concerning inmate visitation. A media representative will not be in addition to the names on the approved list and will be counted against the total of 20.

\* \* \* \* \*

(2) Media representatives and inmates will abide by all applicable rules, regulations and policies of the Department while on [State correctional institution] facility property. Violations of any rules, regulations or policies of the Department may result in the visit being denied, termination of the visit, suspension of visiting privileges or revocation of visiting privileges.

\* \* \* \* \*

#### § 93.4. Purchase for inmates by family and friends.

(a) Family and friends, who are on the inmate's approved visiting list may purchase approved items for inmates under this section. The [institution] facility may disapprove and decline to accept any purchase which does not meet this section.

(b) Only those items listed on the current [Catalogue Purchase list] Approved Master Commissary List may be purchased from approved vendors. Copies of the list are provided to the inmates. Publications may be purchased via this procedure, but shall be subject to § [93.5] 93.2 (relating to [incoming publications] inmate correspondence).

- (c) Purchases shall be approved prior to the time the item is received by the [institution] facility. [Requests for outside purchase shall be initiated by the inmate and reviewed by a designated institution official who will approve or disapprove the request.]
- (d) Only those items shipped directly from the vendor to the [institution] facility will be accepted, [except typewriters which may be brought from home.]
- (e) Packages delivered to the institution will be opened and searched. Any contraband contained in any package will be confiscated. Coins, currency or other negotiable instrument concealed in any package received by the institution is contraband. Confiscated coins, currency or other negotiable instruments will be deposited in the Inmates' General Welfare Fund.
- (f) Packages shall be addressed to the inmate. The address on the package shall contain the inmate's name, institution number and the full name of the correctional institution in which the inmate is confined. The institution may decline to accept any package which is not appropriately addressed.
- (g) The institution retains the right to require identification of the purchaser of any outside purchase and to decline to accept any package which does not conform to this section.
- (h) ~~(e)~~ Unauthorized or disapproved items will be returned to the sender at the expense of the inmate or purchaser.

**§ 93.5. [Incoming publications] (Reserved).**

- (a) Publications for the purpose of this section will include newspapers, magazines, hard or paperback books, newsletters, pamphlets or any other written or printed material which is distributed for the purpose of conveying information. Printed or written material which is to be used solely for identification purposes will be considered property and will be subject to all Department of Corrections rules governing property. Correspondence will be governed by § 93.2 (relating to inmate correspondence).
- (b) Publications, except newspapers and magazines, may be received from any source. Covers of hard-bound publications received from sources other than the original source, may be damaged or removed where inspection of the cover is deemed necessary and no reasonably available alternative form of inspection is adequate. Magazines and newspapers must be mailed directly from the original source. Small letter-sized pamphlets may be received in regular correspondence from family members, friends or religious advisors. Publications which are sent directly from a publisher, bookstore, distributor or department store will usually be deemed to have come from the original source.
- (c) The Publications Review Committee will determine whether written or printed material is a publication and will rule on publications within 10 days after the material is received. Property will be forwarded to the property officer for processing. The committee will communicate its decision to the inmate, with reasons if a publication is disapproved.
- (d) Receipt of publications may be disapproved when the publications contain the following:
- (1) Information regarding the manufacture of explosives, incendiaries, weapons, escape devices or other contraband.
  - (2) Instructions regarding the ingredients or manufacture of poisons, drugs or intoxicating beverages.
  - (3) Writings which advocate violence, insurrection or guerrilla warfare against the government or any of its institutions or which create a clear and present danger within the context of the correctional institution.
  - (4) Materials which portray, depict or expressly encourage violent or assaultive sexual conduct or involuntary deviant sexual conduct.
  - (5) Writings which advocate, assist or are evidence of criminal activity or institution misconduct.

- (e) A publication will not be prohibited solely on the basis that the publication is critical of penal institutions in general, of a particular institution, of a particular institutional staff member, of an official of the Department of Corrections, or of a correctional or penological practice in this or any other jurisdiction.
- (f) The criteria set forth in subsection (d) should not be interpreted so broadly as to require disapproval of recognized textbooks in chemistry, physics or the social sciences.
- (g) An inmate may receive more than one copy of a publication only with special approval of the Publications Review Committee.]

#### § 93.6. Religious activities.

- (a) *Policy.* It is the policy of the Department [of Corrections] to permit each inmate to satisfy the needs of his religious life, consistent with the security needs and orderly administration of the [institution] facility. The Department [of Corrections] will provide chapel facilities at each [institution] facility. The Department [of Corrections] will also permit inmates to possess approved religious items and make reasonable accommodation for dietary restrictions.
- (b) *Religious advisors.*
  - (1) If the [institution] facility contains a sufficient number of inmates of the same faith, a qualified representative of that faith from the outside community will be appointed or approved by the [Superintendent] Facility Manager and will be permitted to hold regular services in the [institution] facility. Qualified representative will mean a person from the outside community who has received endorsement from his [recognized] faith group authority.
  - (2) Each inmate will be permitted to select a religious advisor from the outside community who has received endorsement from the [recognized] faith group authority. This person will be permitted to visit the inmate on an individual basis in accordance with general rules governing visitation.
- (c) *[Recognition] Accommodation of faiths.* Requests for [recognition by] accommodation of faiths [that are not well known] will be handled as follows:
  - (1) [Institutional] Facility officials will secure written information from the recognized outside faith group authority, including publications which describe the goals, beliefs and practices of the group.
  - (2) Information material will be forwarded to the Director of Chaplaincy Services for the Department [of Corrections] who will determine the authenticity and religious needs of the group] for evaluation.

#### § 93.7. Telephone calls.

- (a) Inmates may make [collect] phone calls [to persons who are willing to accept the charges subject to institution rules and procedures] in accordance with 66 Pa.C.S. 2907. All phone calls, except confidential communications between attorneys and inmates shall be subject to monitoring in accordance with 18 Pa. C.S. Chapter 57 (relating to wiretapping and electronic surveillance).
- (b) Phone calls to inmates will be permitted only if approved in advance by the [Superintendent] Facility Manager or [his] a designee.

#### § 93.9. Inmate complaints.

- (a) The Department [of Corrections] will maintain an inmate grievance system which will permit any inmate to seek review of problems which he experiences during the course of his confinement. The

system will provide for review and resolution of inmate grievances at the most decentralized level possible. It will also provide for review of the initial decisionmaking and for possible appeal to the Central Office of the Department [of Corrections]. An inmate will not be disciplined for the good faith use of the grievance systems. However, an inmate who submits a grievance for review which is false or malicious may be subject to appropriate disciplinary procedures. Copies of the directive governing grievance procedures will be made available to the inmates.

(b) Inmates may also pursue available remedies in State and Federal court.

**§ 93.10. Inmate discipline.**

(a) Rules which define expectations and prohibitions for inmate behavior will be established by the Department [of Corrections] and distributed to the inmate population. There shall be two classes of misconduct charges, Class I and Class II.

\* \* \* \* \*

(b) Written procedures which conform to established principles of law for inmate discipline including the following will be maintained by the [Bureau] Department and distributed to the inmate population:

\* \* \* \* \*

**§ 93.11. Housing.**

(a) [No] An inmate [shall] does not have a right to be housed in a particular [institution] facility or in a particular area within [an institution] a facility.

(b) Confinement in a Restricted Housing Unit (RHU), other than under procedures established for inmate discipline, will not be done for punitive purposes. The Department [of Corrections] will maintain written procedures which describe the reasons for housing an inmate in the RHU and require due process in accord with established principles of law for an inmate who is housed in the RHU. All inmates confined in the RHU will be reviewed periodically by [institution] facility staff.