



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		POLICY NUMBER 500-06	PAGE NUMBER 1 OF 13
		DISTRIBUTION:	Public
		SUBJECT:	Offender Correspondence
RELATED STANDARDS:	<b>ACA Standards 5-ACI:</b> 3D-02, 4A-20, 7D-01, 7D-02, 7D-03, 7D-05, 7D-06, 7D-07, 7D-08, 7D-09, 7D-10	EFFECTIVE DATE:	February 01, 2024
		SUPERSESSION:	11/01/2022
DESCRIPTION: Offender Management	REVIEW MONTH: January	 <b>KELLIE WASKO</b> SECRETARY OF CORRECTIONS	

## I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) to allow offenders to correspond with family, friends, courts, legal counsel, and other public/private entities, as appropriate.

## II. PURPOSE

The purpose of this policy is to establish *procedures* that *govern offender correspondence* [ACA 5-ACI-7D-01].

## III. DEFINITIONS

### Censorship:

The act of deleting or editing of a portion of an item of correspondence. Department officials may not delete portions of an item of correspondence.

### General Correspondence:

Written communication to or from offenders, to include letters or other printed material and packages, which is initiated, forwarded, sent, received, or transmitted through the U.S. Postal Service or private commercial carrier, to or from an offender.

### Immediate Family:

Immediate family includes an offender's spouse, children, parents, sisters, brothers, stepchildren, stepparents, stepsisters and stepbrothers, half-sisters and half-brothers, grandparents and great-grandparents, mother-in-law, father-in-law, sister-in-law, or brother-in-law (spouse of offender's brother or sister, or brother or sister of offender's spouse), aunts, and uncles.

### Indigent:

An offender with no funds or source of income.

### Inspection:

To examine or view, including reading and/or photocopying.

### Printed Matter:

Books, magazines, calendars (subject to certain size stipulations), newspapers, and periodicals addressed to a specific offender. must be received directly from the publisher/publication supplier, distributor, or accredited institution of higher learning, unless the offender receives prior approval from the warden or designee.

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### **Privileged/Legal Correspondence:**

Correspondence mailed directly to or from a court, judge, attorney, or specific governmental official or agencies identified in this policy.

### **Rejected Correspondence:**

Items of correspondence returned to the sender or discarded for violation of DOC policy.

### **Third Party Mail:**

Mail that is received or sent through a social networking, persona introduction, or pen pal service, rather than directly to or from the individual named on the envelope.

## **IV. PROCEDURES**

### **1. General Regulations:**

- A. Wardens will permit offenders to send and receive mail, unless it can be determined that such mail may present a threat to the safety and security of the public, employees, contract workers, volunteers, offenders, or agency/facility, pursuant to the review criteria in DOC policy *Publications* – 500-03.
- B. It is the responsibility of each individual who chooses to engage in offender correspondence to familiarize themselves with this policy.
- C. *Offender mail, both incoming and outgoing, may be opened and inspected for contraband. Mail is read or rejected based on legitimate institutional interests of order and security [ACA 5-ACI-7D-05].*
- D. *Disposition of contraband* contained in offender mail will be in accordance with policies for searches and contraband control [ACA 5-ACI-7D-08].
- E. *Offenders in restrictive housing can write and receive letters on the same basis as offenders in the general population [ACA 5-ACI-4A-20].*
- F. All incoming and outgoing offender correspondence must be processed through the institution's mailroom. Incoming and outgoing offender general correspondence cannot be passed through the control room, staff, visits or in any other manner that circumvents the approved correspondence process.
  1. *Excluding weekends and holidays, or emergency situations, incoming and outgoing letters are held for no more than forty-eight (48) hours and packages are held no more than seventy-two (72) hours* of receipt within the mailroom and will be processed and distributed to offenders by mailroom staff [ACA 5-ACI-7D-09]. An emergency situation is interpreted as any significant disruption of normal facility or agency procedure, policy, or activity caused by riot, escape, fire, natural disaster, employee action, or other serious incident. Correspondence requiring translation and packages may take additional time to inspect and process.
  2. All correspondence/envelopes may be on colored/non-white or all white envelopes and paper and shall be processed through this mail process and delivered to the intended recipient.
  3. Correspondence received for offenders temporarily housed off-site, i.e., court or hospital, may be held longer than seventy-two (72) hours and will be distributed to the offender upon return to the facility.
  4. Privileged/legal correspondence is not processed on weekends, holidays, or days when general correspondence is not processed. To ensure minimal delay in processing privileged/legal mail, the warden or designee will ensure alternative staff persons are designated to inspect and ensure delivery of privileged/legal mail when the primary staff person(s) assigned to this task is unavailable.
  5. Outgoing correspondence collected from offenders is processed by mailroom staff and sent to the post office within forty-eight (48) hours of receipt in the facility mailroom.

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6. Delivery and pickup of offender general correspondence is limited to the U.S. Postal Service (USPS) and approved commercial shipping carriers, i.e., United Parcel Service (UPS), FedEx.
- G. Certain limitations apply to offenders wishing to correspond with an offender housed at a South Dakota DOC institution.
1. Both offenders are required to complete an *Inter-Facility Offender to Offender Correspondence Request* form (see attachment #1) to request to correspond with another state prisoner.
  2. An offender may be permitted to correspond with an offender confined in any other penal or correctional institution if the other offender is either a member of the immediate family, they share child, or is a party or witness in a legal action in which both offenders are involved.
    - a. Offenders must provide current documentation, dated within the past six (6) months, to support both offenders are parties to or a witness in a current legal situation. They may be subject to providing subsequent supporting documents to continue privileges. The authority for this level of restriction is at the discretion of the director of Prisons only.
  3. Approval for such correspondence privileges may be revoked or rescinded at any time if it is determined the correspondence violates DOC rules or policy, is a safety or security risk, or is not in the best interest of both parties or the DOC.
  4. Offender to offender correspondence may only be shared with the approved and intended offender recipient.
    - a. Offenders may not send correspondence intra-facility or through central mail services.
- H. All envelopes and packages containing offender correspondence must bear the full name and complete address of the sender on the outside of the envelope/package. Nicknames, aliases, titles, and prefixes only (“Dr.” or “Reverend”, etc.) will not be accepted. Rejected envelopes and packages sent through first class mail will be returned unopened to the sender with a brief description of the reason the envelope or package was rejected. If a rejected envelope or package cannot be returned to the sender, the offender will be notified that the envelope or package was rejected. Rejected correspondence will be destroyed after thirty (30) days.
- I. An offender’s privilege to correspond with an individual or entity may be restricted. Examples of such restrictions include:
1. To enforce compliance with a court order (i.e., “no contact with victim”).
  2. To abide by the individual or entity’s request to terminate contact.
  3. For specific abuses or violations of the correspondence system (rules, policies, directives, or laws).
- J. Offenders found to have knowingly violated a court ordered no contact order or DOC generated Correspondence Termination Notice (see DOC policy 500-05 – *Offender Access to Telephones and Tablets*, attachment #1 for *Correspondence/Telephone/Messaging Termination Request* and attachment #2 *Correspondence / Telephone / Messaging Termination Notice*), are subject to disciplinary action.
1. Recovered correspondence generated by the offender intended for delivery to a prohibited person, or received by the person, may be used as evidence.
  2. Offenders shall receive notice when their privilege to communicate with a particular person has been terminated.
  3. Court ordered no contact and Correspondence / Telephone Termination Notices cannot be appealed through the offender grievance process.
- K. Offenders may not send, receive, transfer, or possess correspondence intended for delivery to a known victim of their crime, as defined within SDCL § 23A-28C-4, if the victim has notified the DOC they wish to be protected from contact by the offender, including enforcement of any order of protection.
- L. Incoming and outgoing correspondence may only contain correspondence for the addressed/intended recipient. Third party correspondence is not permitted.
- M. Offenders may not forward, receive, or possess another offender’s correspondence.

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- N. Each institution will ensure postage stamps, stationary, writing utensils, and envelopes are available through commissary. Indigent offenders are permitted access to limited correspondence supplies, consistent with established policy.

## 2. Incoming General Correspondence and Printed Matter:

- A. *Offenders are notified when incoming or outgoing letters are withheld in part or in full [5-ACI-7D-05]*. This includes withholding of packages and merchandise, cash, checks, and money orders and all other incoming mail addressed to an offender.
- B. Incoming correspondence and printed matter not addressed to a specific offender (e.g., “current resident”, “current occupant”, “resident” or “all offenders”), will be rejected and does not require a rejection notice to be generated to the sender.
- C. Incoming general correspondence sent to an offender will be opened and inspected by mailroom staff. Correspondence will not be withheld or disclosed to another person unless subject to further review, or when considered evidence.
1. Incoming packages will not be opened in an offender’s presence. Packing material (e.g., plastic, “bubble wrap”, “peanuts”, plastic wrap, insulation, paper, cardboard, padded envelopes) that may be a potential threat to safety and security may be withheld from delivery to the offender. When able, contents will be removed from envelopes/packaging and scanned for delivery to offender. Any mail item that is returned will generate a Notice of Rejection to the offender.
  2. Mailroom staff will take secure possession of offender Social Security cards, marriage/birth/death certificates, driver licenses, and photo IDs, including any copy of these documents or other identification documents received at the institution. The offender will be notified of the receipt of these items. Such documents will be securely delivered to the facility case management staff.
- D. All mail, outside of mail that falls under the guidelines of privileged/legal correspondence, is subject to be photocopied, unless the mail is coming into an institution that is equipped with scanning technology equipment. All mail that is scanned through the system may be distributed to the offenders in its original form. All mail for facilities without the technology, will adhere to the following:
1. All incoming personal mail including photos will be photocopied. The offender will only receive the photocopies of their personal mail. The mail room staff has the discretion to photocopy any other mail that doesn’t meet the privileged/legal correspondence guideline. In each case where the mail is photocopied, the original will be held in the mail room for up to thirty (30) days and then disposed of properly.
  2. The original mail that was photocopied will not be allowed to be sent back out.
- E. Incoming correspondence and printed materials may not include any of the following: unused postage stamps, unused envelopes, stickers (unless applied by an outside vender, i.e., price tag, bar code), tape or other adhesive material, glitter, powder, crayon, chalk, lipstick, or any foreign substance attached to or absorbed by the correspondence/material.
- F. Computer/music disks/CDs, more than five (5) small newspaper clippings, blank paper, homemade craft items, are not permitted. Padded envelopes are not allowed unless received from an approved source. If the mail is in a padded envelope and not from an approved source, the contents will be removed from the envelope and only the copied contents forwarded to the offender.
- G. Correspondence received with postage due will not be accepted and will be returned to the sender with a rejection notification sent to the offender.

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- H. Contraband and correspondence that does not comply with the required standards, may be removed from received correspondence, which is opened/processed by mailroom staff to facilitate delivery of approved items of correspondence contained within the envelope. Contraband or non-permitted items will not be delivered to the offender and must be properly disposed of or sent out by the offender.
1. Contraband will be documented, reported, and disposed of in accordance with the disposition of contraband policy and/or evidence, following proper notice to the offender and sender.
- I. *When the offender bears the mailing cost, there is no limit on the volume of correspondence the offender can send or receive or on the length, language, content, or source of mail or publications except when there is reasonable belief that limitation is necessary to protect public safety or institutional order and security [ACA 5-ACI-7D-02].* The amount of incoming correspondence and printed material an offender may receive is unlimited; however, limits may be placed on the volume of correspondence and printed material received at one time by an offender or stored in an offender's cell/possession, to maintain and preserve safety, security, and sanitation standards.
- J. Offenders may receive approved printed matter through the offender correspondence system, provided this is sent to the offender directly from a publisher, distributor, or institution of higher learning providing the educational correspondence course (includes accredited and non-accredited correspondence courses). Books must be soft cover. Correspondence course materials may include colored paper or colored envelopes.
- K. Offender's general correspondence becomes offender personal property and is subject to established policies and procedures that apply to personal property, including established limits and search/inspection.

### 3. Privileged/Legal Correspondence:

- A. Incoming and outgoing First-Class mail or packages which, on the face of the envelope or package, clearly identifies the sender or recipient as an attorney (must be licensed to practice law in state and/or Federal court) or an approved designee of said attorney, a judge, an officer of the court (state or federal) or an organization or entity known to provide legal services to offenders are considered privileged/legal correspondence as long as the envelope clearly states the contents are privileged/legal correspondence.
- B. Incoming and outgoing correspondence from the following sources is considered privileged/legal:
1. Judge of any court.
  2. Clerk of any court.
  3. County Auditor.
  4. Private practice attorneys/lawyers or law firms.
  5. State's Attorney.
  6. Public Defender's Office (State or Federal).
  7. Public Advocate Offices.
  8. South Dakota Advocacy Service (SDAS).
  9. South Dakota Attorney General or representative of the Attorney General's office.
  10. South Dakota Governor.
  11. South Dakota Secretary of Corrections.
  12. U.S. Attorney General, U.S. Attorney for South Dakota, and Assistant U.S Attorneys for South Dakota.
  13. South Dakota Division of Criminal Investigation.
  14. Offender foreign nationals shall be permitted to write their embassy or consulate.
  15. Organizations or entities which are known to provide legal services (such as East/West River Legal Services, Dakota Plains Legal Services, and the American Civil Liberties Union).
  16. Organizations or entities which are known to provide rape crisis/ victim advocate services (such as Compass Center, Missouri Shores, Working Against Violence, and River City Domestic Violence Center).

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- C. Outgoing correspondence addressed to county sheriffs:
1. If the contents of the outgoing correspondence are a summons, complaint or other document intended for service of process, and it is addressed to a county sheriff's office, the mail will be treated as privileged/legal mail. Unit staff are allowed to summarily review the documents in order to determine whether they are summons and complaints, subpoenas, or other documents intended for service of process.
- D. The following **incoming** correspondence will normally be treated as privileged/legal only if the envelope is clearly marked "personal", "legal", or "privileged".
1. U.S. and State Representatives and Senators.
  2. Governors (other than the Governor of South Dakota).
  3. Prison or correction agencies or officials.
  4. Parole authorities.
  5. Law enforcement agencies or officials.
- E. Examples of **outgoing** correspondence **NOT** considered privileged/legal:
1. U.S. and State Representatives and Senators.
  2. Governors (other than the Governor of South Dakota).
  3. Prison or corrections agencies or officials (other than the South Dakota Secretary of Corrections).
  4. Parole authorities.
  5. Law enforcement agencies or officials (excluding SD Division of Criminal Investigation).
  6. The National Association for the Advancement of Colored People (NAACP).
  7. The Bureau of Indian Affairs (BIA).
  8. Amnesty International.
  9. The State Bar Association of South Dakota and its committees.
  10. The Center for Constitutional Rights (main office is in New York, NY).
  11. Governmental agencies or officials not listed above in this section, paragraph B.

#### 4. Incoming Privileged/Legal Correspondence:

- A. Only privileged/legal correspondence readily and clearly identifiable as privileged/legal correspondence shall be treated as such. It is the responsibility of the sender to clearly indicate the correspondence contained within the envelope or package is privileged/legal.
- B. Correspondence/envelopes and packages clearly designated privileged/legal shall remain secure and in the control of authorized staff until personally delivered to the offender addressee.
- C. *Mail to offenders from this specified class of persons and organizations may be opened only to inspect for contraband and only in the presence of the offender, unless waived in writing, or in circumstances, which may indicate contamination [ACA 5-ACI-7D-06].* Correspondence and packages may be searched outside the presence of the offender in emergency situations, such as correspondence or packages perceived to pose an immediate threat. An emergency exception requires authorization from DOC legal counsel. During the inspection of privileged/legal correspondence, staff will determine the genuineness of the addressor.
1. Staff shall not read, censor, or unreasonably delay privileged/legal correspondence or packages, unless, after opening the envelope or package, there is a reasonable belief supporting the correspondence contained is not privileged/legal correspondence, poses an immediate threat, or otherwise violates policy or correspondence requirements. Such inspection will be completed in the presence of the offender. If any of the content is withheld from delivery, the offender shall be notified of reason, and this shall be noted on the *Offender Legal Mail Acknowledgement* form (see attachment #7).
  2. Inspection may include opening all seams of any envelope containing legal/privileged correspondence. If the envelope is to be withheld from delivery to the offender for safety and security reasons, the offender may request a photocopy of the outside portion of the envelope showing the sender's name, return address and postmark date. Privileged/legal

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correspondence/envelopes may be on colored/non-white envelopes and paper and shall be delivered to the intended recipient.

3. The offender will be informed in writing if privileged/legal correspondence properly marked and intended for delivery to an offender, is accidentally opened by staff outside the presence of the offender.
- D. Staff must document the delivery of privileged/legal correspondence to the offender on the Offender Legal Mail Acknowledgement form. The offender is required to sign for the delivered correspondence.
  - E. If an offender refuses to sign for receipt of the correspondence, staff will note the refusal and the correspondence or package will be returned unopened to the sender.
  - F. Mailroom staff shall document all privileged/legal correspondence or packages received at the facility in the *Offender Legal Mail Log - Incoming* (see attachment #8). The log shall be stored as a hardcopy in the mailroom and electronically. Logs shall be maintained for a minimum of three (3) years from the date the log was created.
  - G. Offenders will be permitted to receive and retain envelopes with or without pre-paid postage included in privileged/legal correspondence provided the envelope is self-addressed or clearly stamped "Legal Mail".

## 5. Receiving Funds through the Mail System:

- A. All incoming general correspondence and packages will be opened by mailroom staff to *inspect for and intercept cash, checks and money orders* [ACA 5-ACI-7D-07].
- B. Cash will not be accepted for deposit into an offender's account (All cash or rejected funds shall be sent out at the offender's expense. A *Mailroom Correspondence Rejection Notice-Offender* (see attachment #2) shall be completed by mailroom staff and sent to the offender.
- C. The sender of the rejected funds may appeal the decision to reject the funds to the warden. A *Mailroom Correspondence Rejection Notice-Sender* (see attachment #3) will be completed by staff and accompany the correspondence and/funds returned to the sender.

## 6. Outgoing Correspondence:

- A. *When the offender bears the mailing cost, there is no limit on the volume of correspondence the offender can send or receive or on the length, language, content, or source of mail or publications except when there is reasonable belief that limitation is necessary to protect public safety or institutional order and security* [ACA 5-ACI-7D-02]. Offenders classified as *indigent* will *receive a specified postage allowance to maintain community ties* [ACA 5-ACI-7D-03]. Indigent offenders are allowed access to correspondence supplies, including postage, through the institutional commissary system.
- B. An approved envelope or package must be used to send correspondence (includes photocopies, photos, or property) out of the institution. Drawing on the envelope is permitted, provided it is in pencil or black ink. All outgoing envelopes or packages must bear the offender's full name, ID number, and return address. Nicknames and aliases will not be accepted.
  1. If an envelope or package does not include the required identifying information, the envelope or package will not be sent out and will be returned to the offender, provided the offender can be identified.
  2. Proper postage must be affixed to all outgoing general correspondence and packages. Correspondence or packages without proper postage will not be sent out and will be returned to the offender. Offenders may not send correspondence collect on delivery (COD).

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3. Offenders requesting additional mail services shall be responsible for the cost of those services. Mailroom staff at the facility will make reasonable efforts to obtain the requested additional service upon receipt of full payment for the additional service from the offender.
- C. Outgoing general correspondence must be placed in an unsealed envelope in a mailbox provided by the institution. Arrangements may be made with mailroom staff to send out offender property in approved packages.
    1. Staff may inspect, read, scan, and examine outgoing general correspondence, packages, and contents.
    2. Outgoing correspondence will not be censored.
    3. Outgoing correspondence will either be approved and mailed out, held for investigative purposes, or rejected and returned to the offender. Approved correspondence and contents will be sealed within the accompanying envelope or package by staff.
  - D. Checks issued from an offender's account to be included in offender outgoing correspondence must be issued by the business office and delivered to the mail room staff for placement in the offender supplied envelope or package.
  - E. Outgoing correspondence returned to an offender is considered rejected mail and will be treated the same as all incoming correspondence (see section "Incoming General Correspondence and Printed Matter" in this policy).

## 7. Outgoing Privileged/Legal Correspondence:

- A. Offenders shall be permitted to mail privileged/legal correspondence to designated officials (privileged correspondence). Only correspondence properly designated as privileged/legal correspondence will be considered privileged/legal correspondence.
- B. Each housing unit will maintain regular and designated times on weekdays for offenders to mail privileged/legal correspondence. The correspondence must be delivered to staff by the offender in an unsealed, self-addressed envelope or provided to staff making rounds to collect correspondence prepared for mailing.
- C. Outgoing privileged/legal correspondence will be inspected. Staff shall not read, censor, copy, or unreasonably delay privileged/legal correspondence without cause.
  1. ***Staff, in the presence of the offender, may be allowed to inspect outgoing privileged mail for contraband before it is sealed [ACA 5-ACI-7D-06].***
  2. If there is a question whether the correspondence qualifies as privileged/legal correspondence, the correspondence will be returned to the offender until unit staff can be consulted to review the correspondence in question. A determination will generally be made within twenty-four (24) hours of the offender first presenting the correspondence for mailing, excluding weekends and holidays.
  3. Staff will seal the envelope and sign or initial over the sealed flap of the envelope in the offender's presence. The envelope will be identified as privileged/legal mail.
  4. Privileged/legal correspondence submitted with general correspondence in the same envelope will be considered general correspondence and subject to the same reviewing and inspection as general correspondence.
- D. If an offender is suspected of abusing the privileged/legal correspondence process, or there is reasonable suspicion supporting a sealed envelope or package may contain material that may jeopardize the health and safety of others, or the envelope was sealed without proper authorization, the sealed envelope or package may be opened and inspected by staff. The offender must be provided notice the sealed envelope or package was opened, including the basic reason the envelope or package was opened. If the envelope or package is found to contain unacceptable material, the envelope and its contents may be seized as evidence. If no prohibited material is found, the envelope or package and its contents shall be sealed and mailed without further delay.
  1. After conclusion of any disciplinary proceedings, any seized material identified as legal/privileged material will be returned to the offender.



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- E. State-paid postage for privileged/legal correspondence is limited to five (5) mailings per week, per offender. State-paid postage will not exceed fifteen dollars and zero cents (\$15.00) per month, per offender. Mail items which exceed the \$15.00 per month allowance must have postage affixed. Commissary will not be utilized for postage on the “over the allowance” mail items. The new month shall start with the first full week of the month. State-paid postage is limited to first class mail and does not include certified mail or any other additional fees/charges that may apply. Offenders who request additional mail services be applied to privileged/legal mail are responsible for those costs. There is no limit on the amount of privileged/legal mail an offender may send out at their own expense.
- F. Staff will complete the *Offender Legal Mail Log - Outgoing* (see attachment #6) for all outgoing privileged/legal correspondence.
- G. Indigent offenders will be provided reasonable postage, envelopes, writing materials, and stationery for the purpose of composing and mailing legal/privileged mail (see section “Privileged/Legal Correspondence” in this policy for a complete list). Indigent offenders may contact a member of their unit team to request correspondence materials. The DOC will *ensure and facilitate offender access to counsel and assist offenders in making confidential contact with attorneys and their authorized representatives; such contact includes, but is not limited to, uncensored correspondence* [ACA 5-ACI-3D-02].

## 8. Rejected Correspondence and Printed Matter Guidelines:

- A. Correspondence or items contained on or within the envelope or package that violate state or federal law, DOC policy, or rules will be removed and may be held as evidence. A rejection notice shall be sent to the offender and/or sender in accordance with this policy.
- B. Any items or correspondence contained within any correspondence, envelope, or package that constitutes a threat to the security or disciplined operation of the institution may be withheld from delivery to the offender, confiscated, and/or turned over to the inspector general’s (IG’s) staff.
- C. Correspondence that induces or furthers illegal activity may be withheld or confiscated. This includes offender correspondence ordered to be monitored by court order or as part of an ongoing federal, state, or local investigation.
- D. Photocopies of the original correspondence, printed matter, or contraband shall be considered the same as originals and may be used as evidence.
- E. Correspondence and printed material inconsistent or contrary to the legitimate penological objectives of the DOC, including maintaining institutional order, discipline, safety, security, preventing escape, and encouraging rehabilitation of offenders within the facility, is not permitted, and may be rejected and/or confiscated. ***Offenders are notified when incoming or outgoing letters are withheld in part or in full*** [ACA 5-ACI-7D-05]. The following items will be rejected (this is not intended to be an inclusive list):
  - 1. Material that includes information about the planning, promotion, or furtherance of criminal activity.
  - 2. Material that violates a prohibited act, rule, regulation, policy, or directive of the DOC; or contains any information that if communicated to an offender, may create a threat to the safety, security, and good order of the institution.
  - 3. Material depicting or describing procedures for the manufacture or construction of an unconventional or improvised weapon, explosive, incendiary device, narcotics, drug paraphernalia, alcoholic beverage, or unlawful substance, contraband, or any unapproved item; or contains plans to smuggle contraband into or out of the institution.
    - a. Any correspondence containing illegal contraband (i.e., weapons, explosives, drugs), as defined by state or Federal statute, contraband, or any unapproved item(s).
  - 4. Material that advocates or encourages violence or contains threats of physical harm against any person.

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5. Material that illustrates, explains, encourages, describes, or teaches the ability to frustrate a crowd, group disruption, or methods to incite a riot.
6. Material that teaches or gives the ability to sabotage or disrupt communication networks, including internal and external communications and automated information systems.
7. Materials that illustrate, explain, describe, or teach the ability to manipulate in any form or fashion, a locking device, mechanical restraint, or safety equipment used by DOC staff in the course of their duties.
8. Materials that depict gang activity, gang insignia, or may be construed as pertaining to, initiating, or furthering gang/security threat group activity, within the facility or outside the facility.
9. Printed material containing complementary items considered contraband, i.e., free CDs, fragrance samples, scratch tickets, posters. Rejected items held in place with a perforated edge may be removed by mailroom staff to facilitate delivery of the printed matter to the offender. Removal of perforated edge items by staff does not constitute censorship and does not require a rejection notice.
10. Material determined to be sexually explicit content as defined in the *Publications* policy 500-03.
11. Materials sent to a sex offender which Sex Offender Management Program staff have determined are detrimental to the rehabilitation of an offender attending or receiving sex offender programming.
  - a. Possession of certain materials by a sex offender may be a violation of the offender's sex offender management program contract.
12. Pictures of current or past DOC staff, contract staff, volunteers, interns, or other offenders, unless obtained through an authorized and approved means.
13. Material that violates U.S. postal regulations e.g., contains content describing threats, blackmail, or extortion. Such correspondence shall be reported to the IG's staff.
14. Material that contains encoded material, organized symbols, or is written in code. This does not automatically prohibit printed matter or correspondence written in a recognized foreign language. Material believed to be written in a foreign language will be considered on a case-by-case basis based on the ability to translate the material or reasonable assurance it does not pose a threat to safety or security.
  - a. Incoming and outgoing correspondence written in a language other than English, including correspondence written in more than one language, may be delayed up to an additional ten (10) working days to facilitate translation/verification.
  - b. If, after ten (10) days, good faith attempts by staff or other resources to translate the materials are unsuccessful, too costly, or there is reason to believe the content may be in violation of this policy, the material may be rejected, and appropriate notification sent to the offender.
  - c. Foreign language and Braille publications received directly from a recognized library or approved and legitimate outside source, i.e., publisher or bookstore, may be approved without translation of the material.
15. Material that depicts, encourages, aids, or describes methods of escape from secure custody or restraint; or contains blueprints, drawings, or similar descriptions of correctional facilities. Maps that do not pose a threat to safety or security are permitted, i.e., educational or religious purposes. Maps of the local area (city where the facility is located) are NOT permitted.
16. Material that advocates racial, religious, or national hatred in such a way to create a danger of violence in the facility.
17. Calendars larger than 12" X 12".

## 9. Rejected Correspondence Procedures:

- A. If mailroom staff identify correspondence, items contained within correspondence, or a package for delivery to an offender that violates allowable correspondence as identified in this policy, mailroom staff will provide the item or a copy of the item to an associate warden for final approval to reject the item. Mailroom staff will then send a Mailroom Correspondence Rejection Notice-Sender to the sender. Exclusion or confiscation of correspondence, printed material, or items shall be related directly to the maintenance of institutional order and security.
  1. The sender may appeal the decision to reject the correspondence, printed matter, or items by writing to the warden of the facility. The sender has thirty (30) days from the date the notice was signed by mailroom staff to appeal the decision.

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- a. The warden will respond in writing within thirty (30) days of receipt of the sender's appeal.
    2. The sender may appeal the warden's decision by writing to the secretary of corrections (SOC) within thirty (30) days of date the warden signed the response. The sender should include the response received from the warden with his/her appeal to the secretary.
      - a. The SOC will respond in writing to the sender within thirty (30) days of receipt of the appeal and copy the warden.
      - b. The secretary's decision is final.
    3. The warden must notify mailroom staff of the secretary's decision.
- B. *Written policy and procedure govern inspection for and disposition of contraband [ACA 5-ACI-7D-08].*** If after review by the associate warden the items, printed matter, or correspondence is to be excluded or confiscated, mailroom staff will complete a Mailroom Correspondence Rejection Notice – Offender. The notice shall be sent to the offender within forty-eight (48) hours of when the correspondence is rejected.
1. Excluded or confiscated correspondence, printed matter or contraband is subject to one of the following actions:
    - a. The correspondence, printed matter, or item of contraband will be returned to the sender at the offender's request. This may occur only after thirty (30) days have passed from the date the Mailroom Correspondence Rejection Notice – Sender was signed, and only if no appeal was received by the warden from the sender of the rejected correspondence.
      - 1) If the offender chooses to send out the excluded or confiscated correspondence, the offender must provide an addressed envelope with the appropriate postage to mailroom staff.
    - b. If the excluded or confiscated correspondence has been opened and found to contain items not subject to rejection (approved checks, money orders), the offender may choose to accept and receive these items. The rejected portion of the correspondence will be sent out as described in this policy.
    - c. The rejected correspondence, printed matter, or item(s) may be destroyed at the offender's request. This may occur only after thirty (30) days have passed from the date the Mailroom Correspondence Rejection Notice – Sender has been signed and no appeal is received by the warden from the sender.
      - 1) If an appeal is received by the warden from the sender, the rejected or confiscated correspondence, printed matter, or item(s) shall be retained pending exhaustion of the grievance process.
  2. Offenders may file a grievance within thirty (30) days from the date they received the Mailroom Correspondence Rejection Notice - Offender.
    - a. Offenders who have filed a grievance regarding excluded or confiscated correspondence, printed matter, or items, are not required to take action until the grievance process is exhausted.
    - b. Mailroom staff will ensure an adequate description of the excluded or confiscated correspondence, printed matter or items is retained and sent to the reviewing authority/warden, so a decision can be rendered.
  3. Offenders who have not filed a grievance have thirty (30) days from the date the Mailroom Correspondence Rejection Notice - Offender is signed by staff to notify the mailroom staff of their intended action.
    - a. If the offender fails to respond to the Mailroom Correspondence Rejection Notice - Offender within thirty (30) days from the date the notice was signed, and no appeal or grievance is pending, mailroom staff may dispose of the correspondence, printed matter, or item in an appropriate manner and all copies of the completed notice are provided to the offender.
  4. Upon determination certain common, bulk, commercial, or frequent correspondence, printed matter, or items will not be allowed (excluded), the warden or designee will notify institutions of the decision to reject the correspondence, printed matter, or item to ensure consistency at all institutions.
  5. Printed material containing complimentary items that meet the definition of contraband or are otherwise deemed unacceptable (free CDs, fragrance samples, scratch tickets, etc.) shall not be delivered. Mailroom staff will fill out a *Discarded Items From Printed Matter* form (see attachment #4).

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- C. In any instance where the intended recipient of correspondence or printed matter cannot be determined, and the correspondence or printed matter contains no return address, the correspondence or printed matter will be destroyed by mailroom staff. If money is included in the correspondence, the money will be deposited into the general fund.

## 10. Mailroom Operations:

- A. The mailroom post is a specialized post not subject to the bidding process at each facility. Staff assigned to the mailroom will be trained in safe mail handling procedures.
- B. Unauthorized individuals shall not have access to the mailroom. Only authorized staff is allowed in the mailroom. Unauthorized individuals in the mailroom must remain under direct supervision of authorized staff. Doors to the mail room shall remain secured when not occupied by authorized staff. Offenders are NEVER authorized inside mail rooms under any circumstances.
- C. All staff working in the mailroom shall wear approved, DOC issued, protective gloves when screening correspondence, including opening, inspecting, or otherwise handling correspondence.
- D. Each facility shall designate an associate warden, major, or member of the IG's staff to assume command of situations involving suspicious or dangerous correspondence and to ensure mail security and safety protocols are followed.
- E. Staff encountering suspicious or dangerous correspondence will contact the associate warden, a major, or the IG's staff immediately. The associate warden, major, or IG will assume command of the situation.
- F. Suspicious or dangerous correspondence includes but is not limited to:
1. Protruding wires, strange odors, leaking any substance, paper that is stained or discolored, or the envelope or package contains any unidentified substance(s), i.e., powder, liquid, residue.
  2. A city or state in the postmark that does not match the return address or no return address.
  3. Unusual weight, given the size of the envelope or package or an envelope or package that is rigid, bulky, lopsided, or oddly shaped.
  4. Any discoloration, stain of the paper or any indication the paper has been exposed to a liquid/fluid, such as ink or print that is blurred or appears to have run on the paper.
- G. When suspicious or dangerous correspondence is detected, staff shall maintain a safe distance between themselves and the item. The item shall remain isolated from staff and offenders and not handled until the associate warden, major, or IG's staff responds. The IG will determine if notification to the South Dakota Division of Criminal Investigation (DCI) is warranted.
- H. Exposure to certain hazardous materials or drugs is dangerous and may pose certain health risks to those exposed. Exposure can occur through contact with skin or inhalation of the substance. Staff will follow the guidelines listed in the *Risk Management Bulletin Issue 43: Anthrax Threat Guide for South Dakota* (see <https://boa.sd.gov/risk-management/docs/section10.pdf> included as attachment #5) and DOC policy when there is reason to suspect the staff member may have had direct contact with a hazardous material or drug. Persons who may have been exposed will be isolated. All persons in the mail room will wash their hands with soap and water. If any person present when the hazardous material or drug was in the mailroom experiences health issues that may be related to exposure to such items, medical or emergency services must be contacted immediately.
- I. Theft of mail is a federal crime. Staff shall report suspected mail losses to the IG. The IG may assign special investigations unit (SIU) staff to investigate the possible loss and must report any confirmed losses due to theft to the DCI.

## 11. Forwarding Correspondence:

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- A. ***Written policy, procedure, and practice provide for forwarding first-class letters and packages after an offender's release [ACA 5-ACI-7D-10].*** When possible, first-class correspondence received at a DOC facility for released, discharged, or deceased offenders will be forwarded to the offender's last known forwarding address.
1. It is the offender's responsibility to notify his/her correspondents of changes in their address.
  2. Correspondence received at the facility for a released, discharged, or deceased offender is not required to be opened and inspected. It is the policy of the U.S. Postal Service to accept and forward unopened first-class mail without additional postage charges.
- B. When possible, correspondence that cannot be forwarded will be returned to the sender.
- C. Incoming correspondence that cannot be returned to the sender or forwarded to the offender may be destroyed by mailroom staff after thirty (30) days have elapsed since the correspondence was received.

## V. RESPONSIBILITY

The director of Prisons is responsible for the annual review and maintenance of this policy.

## VI. AUTHORITY

- A. SDCL §§ 23A-28C-1, 23A-28C-4, 24-2-26

## VII. HISTORY

February 2024  
 October 2022  
 December 2021  
 November 2020  
 August 2019  
 April 2018  
 October 2017  
 October 2016  
 March 2016  
 September 2015  
 August 2015

## ATTACHMENTS *(\*Indicates document opens externally)*

1. Inter-Facility Offender-to-Offender Correspondence Request\*
2. Mailroom Correspondence Rejection Notice-Offender *(Generated in COMS **CORREJNOT06**)*
3. Mailroom Correspondence Rejection Notice-Sender *(Generated in COMS **CORREJNOTS6**)*
4. Discarded Items From Printed Matter\*
5. Anthrax Threat Guide for South Dakota
6. Offender Legal Mail Log - Outgoing *(Currently saved on N Drive as "Legal Mail Log")*
7. Offender Legal Mail Acknowledgment\*
8. Offender Legal Mail Log - Incoming *(Currently saved on N Drive as "Legal Mail Log")*
9. DOC Policy Implementation / Adjustments

# INTER-FACILITY OFFENDER TO OFFENDER CORRESPONDENCE REQUEST

Offender Name: \_\_\_\_\_  
Last First ID Number

Facility: \_\_\_\_\_ Unit/Program: \_\_\_\_\_

At this time, I am requesting to correspond with an offender sentenced, committed, held, or placed in a facility or program under the control of Federal, State, or local corrections.

Name of person with whom I request to correspond:

Offender Name: \_\_\_\_\_  
Last First ID Number

Relationship of this person to you: \_\_\_\_\_

Facility: \_\_\_\_\_ Facility Address: \_\_\_\_\_

Relationship verified by Unit Staff: \_\_\_\_\_  
Unit Staff Name, Printed

My reason for requesting to correspond with this person:

Immediate family member

Shared parental rights of a child

Co-party in an active legal case directly related to current sentence or pending criminal charges

Other - Please explain: \_\_\_\_\_

Return completed form to your Unit Staff at (SDSP or DSP) or Associate Warden (SDWP).

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### DO NOT WRITE BELOW THIS LINE

Approved \_\_\_\_\_ Date: \_\_\_\_\_  
 Disapproved Printed Name of Approving Authority/Staff

**MAILROOM CORRESPONDENCE REJECTION NOTICE - OFFENDER**

To: \_\_\_\_\_  
                     Offender's Last Name                      First Name                      ID#

You have received correspondence, printed matter or a package which is addressed to you but has been rejected, withheld, excluded, or confiscated. The reason for this response is noted below:

You have thirty (30) days to initiate action.

Received from (name of sender):

- Contains items of contraband.
- Contains unauthorized funds, i.e., personal check, or cash.
- Envelope or package with insufficient address information or contained prohibited material.
- Printed matter was not sent from a dealership, bookstore, publisher, distributor, or institution of higher learning, or book that is not soft cover.
- Prohibited correspondence i.e. (court order, victim, another offender, Termination Notice).
- Includes information about the planning, promotion, or furtherance of criminal activity.
- Violates a prohibited act, rule, regulation, policy, or directive of the DOC; or contains any information may create a threat to the safety, security, and good order of the institution.
  
- Depicts or describes procedures to manufacture or construct an unconventional or improvised weapon, explosive, incendiary device, narcotics, drug paraphernalia, alcoholic beverage or unlawful substance, contraband, or any unapproved item; or contains plans to smuggle contraband into or out of the institution.
- Advocates or encourages violence or contains threats of physical harm against any person.
- Illustrates, explains, encourages, describes, or teaches the ability to frustrate a crowd, group disruption, or methods to incite a riot.
- Teaches or gives the ability to sabotage or disrupt communication networks, including internal and external communications and automated information systems.
- Illustrates, explains, describes, or teaches the ability to manipulate in any form or fashion, a locking device, mechanical restraint, or safety equipment.
- Depicts gang activity, gang insignia or may be construed as pertaining to gangs or with the intent of initiating or furthering gang activity within or outside the institution.
- Depicts sexually explicit content (See DOC policy 500-03 *Publications*). Includes personal photographs of an individual(s) when the photo depicts sexual suggestive acts such as intercourse, fellatio, or sodomy.
- Pictures of current or past DOC staff, contract staff, volunteers, or interns of the DOC.

- Violates U.S. postal regulations e.g., contains content describing threats, blackmail, or extortion or is non mailable under law or postal regulations.
- Contains coded correspondence or printed matter, organized symbols, or written in code.
- Depicts, encourages, aids, or describes methods of escape from secure custody or restraint; or contains blueprints, drawings, or similar descriptions of correctional facilities.
- Advocates racial, religious, or national hatred in such a way as to create a danger of violence in the institution.
  
- Other:

\_\_\_\_\_  
Staff Member's Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



### MAILROOM CORRESPONDENCE REJECTION NOTICE-SENDER

To: \_\_\_\_\_  
Sender

Description of rejected item/correspondence: \_\_\_\_\_

Name and ID# of Offender who received the rejected correspondence: \_\_\_\_\_

Mailroom staff are rejecting the following described correspondence/publication for the reason(s) indicated below:

- The correspondence contains contraband or unauthorized items that must be removed to facilitate delivery.
- The correspondence violates a Prohibited Act or any other rule, regulation, policy, or directive governing the DOC or this facility.
- The correspondence contains unauthorized funds, personal check, or cash.
- You are not authorized to receive or send correspondence to/from the correspondent.
- Privileged/legal correspondence that appears to include items of general correspondence.
- The correspondence violates postal regulations, i.e. threats, blackmail or extortion.
- The correspondence is contained within an unauthorized envelope.
- The correspondence or printed matter is coded or requires translation.
- The correspondent has refused the correspondence, and this is being returned, unopened.
- The correspondence has been deemed suspicious or dangerous, as defined within policy.
- Other:

Staff Member's Name	Signature	Date
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You are advised that you may appeal this decision by sending a letter, including a copy of this notice, within 30 days of the date indicated above, to:

Warden  
South Dakota State Penitentiary  
PO Box 5911  
Sioux Falls, SD 57117

Warden  
Mike Durfee State Prison  
1412 Wood St.  
Springfield, SD 57062

Warden  
South Dakota Women's Prison  
3200 East Highway 34  
c/o 500 E. Capitol Ave.  
Pierre, SD 57501

A copy of the completed Notice provided to the sender shall be retained by mailroom staff for three (3) years from the date the Notice was issued. Following expiration of the three (3) year period, the copy of Notice will be destroyed.

### DISCARDED ITEMS FROM PRINTED MATTER

Printed material containing complementary items that meet the definition of contraband or are otherwise deemed unacceptable (free CDs, fragrance samples, scratch tickets, etc.) shall not be delivered. Rejected items held in place with a perforated edge may be removed from the printed matter by mailroom staff to facilitate delivery of the printed matter. Removal of such items by staff does not constitute censorship and does not require a rejection notice.

Staff may not significantly alter the printed matter by tearing, cutting, or otherwise removing pages, or parts of pages from the printed matter or redact any printed content.

Name of Printed Matter: \_\_\_\_\_

The following item(s) was removed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Mailroom Staff Name

\_\_\_\_\_  
Date

# RISK MANAGEMENT BULLETIN

## Issue 43: Anthrax Threat Guide for South Dakota

\*\*\*\*\*

The South Dakota Division of Emergency Management has developed the following Anthrax Threat Guide for the State of South Dakota and asked our office to assist in distributing this information to all of you.

**ATTENTION: In the event of any TERRORISM THREAT - CALL OR HAVE SOMEONE CALL the agencies noted below. Tell them the manner of the threat and the specifics about what is happening and give them your exact location so they can find you. GO TO "Immediate Actions" on back page of this BULLETIN!**

1. Call 911, or local law enforcement and explain the nature of the threat. This will usually dispatch Fire, Law, EMS, and in some cases HAZMAT and public health.
2. Call FBI at 605-334-6881 (Sioux Falls), 605-367-7500 (Pierre), 605-343-8632 (Rapid City) or Minneapolis Office after hours number 612-376-3200.
3. Call South Dakota Division of emergency Management Duty Officer 605-773-3231 and explain the nature of the threat this will activate all pertinent state agencies.
4. For immediate health consultation call the Department of Health at 1-800-592-1861 or 605-280-4810.

This Guide is intended to provide recipients of letters and packages containing an anthrax threat with useful information and guidance to help them deal more effectively with an incident, should one occur. (If you have any questions about this guide or need further information to assist with anthrax threat planning, contact LaJean Volmer, Bioterrorism Preparedness and Response Coordinator at 605-773-7593 or Mike Smith Director SO Public Health Laboratory 605-773-3368)

### Background

In the past few years there have been numerous threats of exposure to Anthrax through letters and phone calls. During threatening phone calls, the person is usually told anthrax has been placed somewhere in the building or the ventilation system. Typically, the letter threats have advised the reader that anthrax is present in the envelope. Some envelopes contain nothing other than a threatening note, while others contain a variety of non-toxic substances (i.e., cleaning compounds or baby powder). To date all threats have been hoaxes, but reactions to these threats (i.e., quarantine, evacuation, decontamination, and medicating victims) have disrupted many lives, stressed many individuals and interrupted businesses.

Anthrax is a disease caused by bacteria (*Bacillus anthracis*). It can cause disease if a sufficient amount of bacteria is inhaled, ingested or introduced into an open cut or wound. If inhaled, the disease may characteristically begin with mild flu-like symptoms (i.e., muscle aches, fever, fatigue, slight cough) usually 1-6 days after exposure, which may then progress after 2-4 days to more severe symptoms (i.e., high fever, shortness of breath). Anthrax is generally treatable with antibiotics! It is not contagious, (spread from person to person), nor is it easily aerosolized!

**Pre-incident Planning:** While it is difficult to fully prepare for such incidents, there are a few things that can be done before an incident occurs to promote effective and orderly response

1. Discuss this issue ahead of time and create a response plan that everyone understands, especially mail handlers and secretaries who are likely to open mail.

2. Coordinate your plan with local authorities and have their phone numbers readily available.
3. Be suspicious of letters that do not have a return address and consider opening all mail in a specially designated mail area away from workstations.

**Immediate Actions: Do not panic**

**Unopened letter or letter that appears empty.**

1. Place envelope in a plastic ziplock bag or glassine envelope.
2. Keep others away.
3. Wash hands and exposed skin (arms) with SOAP and WATER.
4. NOTIFY your supervisor, local law enforcement, FBI and SD Division of Emergency Management. Phone numbers on front page of this Bulletin.

**Envelope with powder and powder spills out onto surface.**

1. DO NOT clean powder up. Keep others away.
2. WASH hands and exposed skin (arms) with SOAP and WATER.
3. DO NOT brush off your clothes.
4. NOTIFY your supervisor, local law enforcement, FBI and SD Division of Emergency Management. (Phone number on front page of this Bulletin.)
5. REMOVE clothing and place in a plastic bag, as soon as possible. Close bag and place in second plastic bag. Clearly label and identify contents, retain for law enforcement, may be evidence.
6. SHOWER with SOAP and WATER as soon as possible at home. DO NOT use bleach or other disinfectant.
7. PUT on fresh clothing.
8. MAKE a list of all people (names, addresses and phone numbers) who had contact with the powder and give to local public health authorities. They may be instructed to watch for fever or other symptoms over the next couple of days.

**Package marked with threatening message such as "Anthrax".**

1. DO NOT OPEN.
2. LEAVE it and EVACUATE the room.
3. KEEP others from entering.
- 4.
5. NOTIFY your supervisor, local law enforcement, FBI and SD Division of Emergency Management. (Phone number on front page of this Bulletin.)

**Aerosolization, small explosion, or letter stating "Anthrax in Heating System".**

1. LEAVE room immediately.
2. SECURE entry.
3. SHUT down air handling system.
4. NOTIFY your supervisor, local law enforcement, FBI and SD Division of Emergency Management. (Phone number on front page of this Bulletin.)
5. REMAIN on premises until responders arrive.

\*\*\*\*\*

*Bureau of Administration \* Office of Risk Management*

*1429 East Sioux Avenue*

*Pierre, SD 57501-3949*

Phone: (605) 773-5879 \* FAX (605) 773-5880

6. MAKE list of all people (names, addresses and phone numbers) who were in the building at the time and give to local public health authorities. They may be instructed to watch for fever or other symptoms over next couple of days.

**For all suspicious unlabeled mail notify law enforcement. Do not open.**

\*\*\*\*\*

*Bureau of Administration \* Office of Risk Management*

*1429 East Sioux Avenue*

*Pierre, SD 57501-3949*

*Phone: (605) 773-5879 \* FAX (605) 773-5880*

Distribution: Public

## OFFENDER LEGAL MAIL LOG - OUTGOING

Entered by Unit Staff							Entered by Mailroom Staff					
Last Name Offender	First Name	ID # Offender	Unit	Date Received	Unit Staff Name	Destination	Date Received	Staff Name	Week	Max. 5 per Week	Postage	TOTAL



Distribution: Public

### OFFENDER LEGAL MAIL LOG - INCOMING

Last Name Offender	First Name Offender	ID # Offender	UNIT	Legal Sender Name	Date Received by Mailroom	Mailroom Staff Name	Date Received by Unit Staff	Date given to Offender	Unit Staff
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