

Jim Pillen, Governor

Policy Directive 024-003

DATE: January 19, 2024

TO: Executive Steering Council

FROM: Rob Jeffreys, Director

RE: Policy 205.01, *Incarcerated Individual Mail*

Effective immediately, the following change will be in effect concerning the above mentioned Policy. These revisions will be incorporated into Policy 205.01 during the next scheduled review. You may contact Deputy Director-Administrative Services Robin Spindler with questions regarding these changes.

Page 4, PROCESS II.A.1., update language with the following **BOLD** changes:

A. Letters, Publications, Commercial Items, Magazines, Books, and Calendars

1. Mail, to include letters, publications, commercial items, magazines, newspapers, books and calendars are allowed to be sent to incarcerated individuals subject to all NDCS Policies, rules and regulations and must be prepaid.

All books, magazines, newspapers, publications, calendars, and commercial items (other than religious items from a church or religious organization or approved by the facility religious coordinator), must be mailed directly from the publisher, bookstore or other approved commercial vendor and must be pre-paid.

Individuals may only order books and receive books pursuant to Policy 113.23, *Incarcerated Individual Orders*.

Only the portion of the mail that violates any NDCS policy, rule or regulation shall be held.

Rob Jeffreys, Director
Department of Correctional Services

P.O. Box 94661 Lincoln, NE 68509-4661
Phone: 402-471-2654 Fax: 402-479-5623

corrections.nebraska.gov

Page 4, ATTACHMENTS, update language with the following **BOLD** changes:

III. ATTACHMENTS

- A. NDCS Rules and Regulations – Chapter 3 – Mail Privileges
- B. Notice of Held Mail (DCS-A-adm-099)
- C. **Notice of Returned/Damaged Mail (DCS-A-adm-008) (2024)**
- D. NDCS Privileged Mail Delivery Form

**NOTE: Notice of Returned/Damaged Mail (DCS-A-adm-008) (Attachment C) updated the REASONS section to state “Any book, magazine, newspaper, publication, calendars, and commercial item (other than religious items from a church or religious organization or approved by the facility religious coordinator), not mailed directly from the publisher, bookstore or other approved commercial vendor.” and “Any book, magazine, newspaper, publication, calendars, and commercial item sent with an invoice, bill or document that indicates the item is not prepaid.”*

**NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
NOTICE OF RETURNED/DAMAGED MAIL**

DATE: _____

TO: _____ # _____ LIVING LOCATION: _____

MAIL WAS RETURNED TO _____

FOR ONE OF THE FOLLOWING REASONS:

CONTRABAND: Is any item or article not issued by the facility, purchased in the canteen, purchased through approved channels, or approved by the Warden or designee.

- ___ Money order/check is not made payable to inmate with complete name, payee name is missing, or cannot determine payee.
- ___ The mail contains threats of physical harm against a person, threats or plans of criminal activity, threats of blackmail or extortion, promotes gang activities, advocates or describes participation in illegal activities.
- ___ Photos of this nature are not allowed: Polaroid Inmate Nudity Sexual Other-See Below
- ___ Blank stationary, stamped envelopes or cards must be purchased through the canteen (stamps are not allowed).
- ___ Violent, racial, obscene or gang material.
- ___ Stickers, tape, paste or glued surfaces: On Envelope On Letter On Artwork Other-see Below
- ___ Questionable substances or stains: On Envelope On Letter On Artwork Other-see Below
- ___ Plastic novelty card or musical greeting card.
- ___ Laminated or glued together greeting card.
- ___ Any book, magazine, newspaper, publication, calendars, and commercial item (other than religious items from a church or religious organization or approved by the facility religious coordinator), not mailed directly from the publisher, bookstore or other approved commercial vendor.
- ___ Any book, magazine, newspaper, publication, calendars, and commercial item sent with an invoice, bill or document that indicates the item is not prepaid.
- ___ Audio-recorded religious material not sent from a church or other religious organization.
- ___ The envelope contains letters to more than one inmate.
- ___ Contraband placed in master records/records file (i.e., vehicle title, certificate, etc.).
- ___ The letter contains another letter from a person in a correctional facility (3rd person mailing).
- ___ The mail is from another correctional facility and the writer is not approved to correspond.

In my opinion, this mail will constitute a threat to the safety, security or good order of this facility or jeopardize your rehabilitative process. As recognized by the U.S. Supreme Court in *Turner vs. Safely*, 107 S. Ct. 2254 (1987), mail between inmates can be used to communicate escape plans, to arrange assaults or other violent acts and to facilitate the development of informal organizations which threaten the security of correctional facilities.

- ___ Trading cards are not allowed.
- ___ Tracing paper is not allowed.
- ___ Plastic laminated card/items are not allowed.
- ___ Inmate cannot enter into a contract requiring future payments.
- ___ Item was received in damaged/altered condition.
- ___ Other: _____

WARDEN/DESIGNEE

Distribution: Original: Mail Room/Records Office

Canary: Inmate

Pink: Sender



Jim Pillen, Governor

Policy Directive 024-006

DATE: January 26, 2024

TO: NDCS Agency

FROM: Rob Jeffreys, Director

RE: Policy 205.01, *Incarcerated Individual Mail*

Effective immediately, the following changes will be in effect concerning Policy 205.01, *Incarcerated Individual Mail*. These revisions will be incorporated into this policy during the next scheduled review. You may contact Deputy Director-Administrative Services Robin Spindler with questions regarding these changes.

Page 5, PROCESS II.A.5.a), update language with the following **BOLD** changes:

- a) Nudity - The depiction of human male or female genitals, anus, or pubic area or of the female breast or a substantial portion of the breast below the top of the nipple, with or without see-through covering, such as "pasties," lace, mesh, and body paint through which the covered area is showing; coverings emphasizing the depiction of human genitals; or tightfitting clothing through which the contours of the genitals are clearly visible.

NOTE: This definition **of nudity** does not include: published material containing nudity illustrating medical, educational or anthropological content **or mainstream print media**.

Page 6, PROCESS II.A.5.j), delete section and renumber remaining sections.

Page 7, PROCESS II.A.12., update language with the following **BOLD** changes:

12. Contraband (ACI-7D-05, ACI-7D-08, ACRS-6A-08)

Rob Jeffreys, Director
Department of Correctional Services

P.O. Box 94661 Lincoln, NE 68509-4661
Phone: 402-471-2654 Fax: 402-479-5623

corrections.nebraska.gov

Page 8, PROCESS II.A.12.c., update language with the following **BOLD** changes:

- c. **In facilities that do not photocopy mail**, address stickers **on non-privileged mail** are contraband **and such** envelopes with address stickers shall be returned to sender.

NEBRASKA Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES	POLICY INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 1 of 16
	STATEMENT OF AVAILABILITY Law Library Access		

EFFECTIVE: March 1, 1980
 REVISED: October 25, 2013
 REVISED: November 24, 2014
 REVISED: September 30, 2015
 REVIEWED: September 30, 2016
 REVIEWED: September 30, 2017
 REVIEWED: December 31, 2018
 REVISED: December 31, 2019
 REVISED: July 31, 2020
 REVISED: December 31, 2021
 REVISED: December 31, 2022
 REVISED: December 31, 2023


SUMMARY OF REVISION/REVIEW

Complete rewrite of the policy, please read carefully.

APPROVED:



Rob Jeffreys, Director
 Nebraska Department of Correctional Services

	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 2 of 16
STATEMENT OF AVAILABILITY Law Library Access			

PURPOSE

To provide Nebraska Department of Correctional Services (NDCS) policy for incarcerated individual mail. (ACRS-6A-07)

Each facility, consistent with its function and the nature of its incarcerated population and programs, shall develop its own Procedure within the limits and guidelines of this policy.


There shall be no restrictions on the number of letters, length, language, content or source of mail or publications, except when there is a reasonable belief that the limitation is necessary to protect public safety or facility order and security. (ACI-7D-02)

As used herein, the term “mail” shall include all items received through the US Postal Services, to include publications and packages unless otherwise specified. As used herein, the term “publications” shall include books, magazines, newspapers and periodicals unless otherwise specified.

The current version of Title 68 Chapter 3 - MAIL PRIVILEGES of the Rules and Regulations of NDCS promulgated under the Administrative Procedures Act (Attachment A) is herewith incorporated into this policy. This document will be referred to as Chapter 3 below. In addition to contraband specified in Chapter 3, contraband includes any items which are not acquired by incarcerated individuals through authorized channels or services.

PROCESS


- I. OUTGOING MAIL - MAIL PRIVILEGES – UNITED STATES POSTAL SERVICE (USPS)
 - A. Incarcerated individuals may send mail messages to any person or organization they choose, except as prohibited by Chapter 3 or this policy.
 - B. If the warden has reasonable cause to believe that an incarcerated individual is using the mail to engage in an unauthorized business enterprise or to defraud the public, the warden should document the facts that led to that conclusion and a direct order should be given to the incarcerated individual to discontinue the practice. Evidence that the incarcerated individual has not complied with the direct order may result in disciplinary action.
 - C. Outgoing mail will be stamped with the following disclaimer: “NOTICE! This correspondence was mailed by an incarcerated individual confined in a facility operated by the NDCS. Its contents are uncensored.”
 - D. The envelope containing outgoing mail must contain the inmate’s committed name and number unless their name has been legally changed. If incarcerated individuals have legally changed their names, the legally changed name and number must be on the envelope of outgoing mail. (ACI7D-01)
 - E. If an incarcerated individual attempts to send mail to an incarcerated individual in another facility or in the same facility, the warden at the sending facility shall have the authority to intercept the mail and return it to the sender under the same standards as provided for incoming mail in Process II.A.

	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 3 of 16
STATEMENT OF AVAILABILITY			
Law Library Access			

- F. Incarcerated individuals will not be permitted to use the state’s inter-office mail system to send mail to NDCS team members, except for these exceptions:
1. When such mail involves applications for a speedy trial directed to the NDCS’ Special Services Unit
 2. Appeals of Institutional Disciplinary Committee (IDC) actions to the Appeals Board
 3. Requests to NDCS Accounting involving their institutional funds
 4. Step 2 Grievance Procedures
 4. Appeals of Classification Actions
 5. Requests to the department ADA coordinator
 6. Requests to mental health practitioner supervisor/Inpatient Healthy Lives Program
 7. Requests to NDCS social worker
 8. Requests to NDCS reentry unit

Team members should not assume responsibility for mailing these materials for incarcerated individuals through interoffice mail except for disciplinary and/or classification appeals. This mail must either be folded or stapled with the proper return address. On the return address, the incarcerated individual must use his/her number and committed name, unless their name has been legally changed, then the inmate’s legally changed name must be on the return address and the name of the facility where the incarcerated individual is assigned. Incarcerated individuals must use the U.S. Mail Service for all other correspondence.

- G. Outgoing mail will be examined for enclosures and contraband. Contraband, other than money, which is removed and confiscated from outgoing incarcerated individual correspondence, will be disposed of unless it is needed as evidence for prosecution. The method of disposition will be decided by the warden. Disposition of money orders will be in accordance with Policy 113.02, *Inmate Accounting*. (ACI-7D-05, ACRS-6A-08)
- H. With the exception of weekends and holidays, all properly stamped and addressed mail will normally leave the facility no later than 24 hours after the sender has deposited it for mailing, and packages will leave the facility no later than 48 hours after deposit. Mail or packages may be delayed when mail/packages contain suspected contraband, additional postage is required, a facility emergency exists or other unforeseen event. (ACI-7D-09, ACRS-6A-08)
- I. Incarcerated individuals may not possess postage stamps. Pre-stamped envelopes will be available for purchase in the facility canteens. Incarcerated individuals will be allowed to possess up to 40 pre-stamped envelopes.

 Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 4 of 16
STATEMENT OF AVAILABILITY			
Law Library Access			

Incarcerated individuals may receive self-addressed stamped envelopes when these come from government agencies, an attorney or other legal mail, a publisher, vendor, religious headquarters, or an educational facility (so long as the envelopes are enclosed as part of a bona fide approved correspondence course). The warden/designee must approve all correspondence courses and will work with designated education team members. Self-addressed stamped envelopes may not be mailed in from any other source and for any purpose other than as stated herein.

- J. When an incarcerated individual purchases a special event card and necessary postage, the canteen team members will affix the necessary postage on the envelope after the card and postage are purchased. The incarcerated individual will not be given the loose stamp to place on the envelope.
- K. Incarcerated individuals are not permitted to enclose postage or stamped envelopes in outgoing mail except when requesting return mail from government agencies or when approved by the warden for special circumstances, such as facilitating family correspondence with children.
- L. Disclaimer stamping of incarcerated individual mail as described in I.C above and examination of outgoing mail as described in I.G above will not be done at community corrections facilities.
- M. If facility team members cannot determine the incarcerated individual who sent the outgoing mail, it will be held for 30 days. If the facility is not contacted about such mail during that time period, the mail will be destroyed.
- N. Incarcerated individuals may write an insufficient funds institutional check for legal mail postage, to include the cost of certified mail.


II. INCOMING MAIL (ACI-7D-04)

Incoming mail procedures may differ for facilities designated by a deputy director. See Process I.D. below for specific incoming mail photocopying procedures for those facilities designated by a deputy director.

- A. Letters, Publications, Commercial Items, Magazines, Books, and Calendars
 - 1. Mail, to include letters, publications, commercial items, magazines, newspapers, books and calendars are allowed to be sent to incarcerated individuals subject to all NDCS Policies, rules and regulations and must be prepaid.

Individuals may only order books and receive books pursuant to Policy 113.23, *Incarcerated Individual Orders*.

Only the portion of the mail that violates any NDCS policy, rule or regulation shall be held.
 - 2. Incoming letters and cards shall not exceed 8 ½ x 14 Incoming letters and cards exceeding 8 ½ x 14 shall be returned to sender.


	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 5 of 16
STATEMENT OF AVAILABILITY			
Law Library Access			

3. Incoming mail identified to violate policy shall be reviewed by the warden/designee to confirm the violation or to permit the mail to be delivered.
4. If facility team members can determine the incarcerated individual for whom the mail is intended, such mail must be delivered. Mail must be delivered if it contains the incarcerated individual's legally changed or the individual's committed name, or name and facility number.

If facility team members cannot determine the individual to whom incoming mail is intended, the mail shall be returned to sender, the mail shall be held for 30 days. If the facility is not contacted about such mail during that time period, the mail will be destroyed.

5. Published sexually explicit materials that contain depictions or written descriptions of prohibited content including such examples as:
 - a) Nudity - The depiction of human male or female genitals, anus, or pubic area or of the female breast or a substantial portion of the breast below the top of the nipple, with or without see-through covering, such as "pasties," lace, mesh, and body paint through which the covered area is showing; coverings emphasizing the depiction of human genitals; or tight-fitting clothing through which the contours of the genitals are clearly visible.

NOTE: This definition does not include published material containing nudity illustrating medical, educational or anthropological content.
 - b) Direct physical stimulation of unclothed genitals.
 - c) Masturbation.
 - d) Sexual Intercourse (including vaginal, oral, anal, or bestiality).
 - e) Bodily fluids.
 - f) Flagellation or torture in a sexual context.
 - g) Sex-related materials determined to constitute a risk to the safety and security of the facility, facilitate criminal activity, or undermine offender/resident rehabilitation.
 - h) A participant(s) who appears to be non-consenting dominated, degraded, humiliated, or in a submissive role, and/or acting in a forceful, threatening dominating, or violent manner which appears to be sexual in nature.
 - i) Minor(s), or models depicting minors, in a sexually suggestive setting/pose/attire.

	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 6 of 16
STATEMENT OF AVAILABILITY			
Law Library Access			

- j) Pictures in a magazine or other publication of general circulation shall not be considered a nude picture.
- k) Computer generated pictures or pictures that appear to be from the Internet will be considered nude pictures.

6. Held Mail

If an incarcerated individual's mail is held for not complying with policy, a *Notice of Held Mail* form (Attachment B) shall be completed. The individual will receive a copy of the form noting the reason the mail was held.


An individual will receive written notice if a publication is deemed to be contraband. The notice shall state why the publication is not being delivered and why it is contraband.

The individual may request a review of held mail through the warden/designee. The warden/designee will provide notice of decision to the individual after review.


The individual may request a review of a held publication through the established grievance process.

The publication will be held until the grievance procedure is exhausted or the time for filing a grievance has expired. The individual shall have 14 calendar days following the exhaustion of the grievance process to request the publication be returned to sender and submit a completed institutional check. If the publication is not returned to sender at the individual's expense, it shall be destroyed.

- 7. Religious publications, tapes and CD's may be received directly from churches or other religious bodies after being screened by the religious coordinator.
- 8. All incoming letters to incarcerated individuals will be stamped with a receiver stamp near the incarcerated individual's name. This stamp will include a date that the material was received and the facility that received it.
- 9. With the exception of weekends and holidays, all incoming mail will normally be delivered to the incarcerated individual within 24 hours and packages within 48 hours after its receipt at the facility. Mail or packages may be delayed when mail/packages contain suspected contraband, a facility emergency exists or other unforeseen event. (ACI-7D-09, ACRS-6A-08)
- 10. Cards, publications or other mail containing metal spirals or open/hollow spaces, and inserts including, but not limited to, buttons and recording devices are not allowed. Plastic spirals are allowed.
- 11. Photographs
 - a. Incarcerated individuals may receive photographs in incoming mail provided they comply with the following provisions:

	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 7 of 16
STATEMENT OF AVAILABILITY			
Law Library Access			

- 1) No hand signs: including peace signs and middle fingers
 - 2) No items that depict violent or illegal activity
 - 3) No pictures of individuals with large amounts of money
 - 4) No items that might incite violent or illegal activity
 - 5) No nude or partially nude males or females, including infants/newborn pictures, and including such drawings/cartoons
 - 6) No individual clothed in panties/underwear, bras, sheer/see-through clothing, including bathing suits, for adults and children
 - 6) No content listed in Process II.A.4. of this policy
 - 7) No sexual gestures, even when clothed
 - 8) No drug use
 - 9) No images of incarcerated individuals or specific to other incarcerated individuals.
 - 10) No images from social media, to include text, filters, emojis, and borders
 - 11) No screen shots shall contain text
- b. Photographs sent that violate NDCS criteria will be held for 30 days and can be returned to sender at the incarcerated individual's expense. After 30 days, any photographs not returned to sender will be destroyed.
 - c. Personalized post cards shall be treated as a photograph.
2. Contraband (ACI-7D-05, ACI-7D-08, ACRS-6A-08)
 - a. Contraband which is removed from incoming incarcerated individual mail which is not returned to the sender may be turned over to law enforcement authorities for possible prosecution. Contraband not returned to the sender or given to law enforcement will be disposed of according to facility procedures.
 - b. Chapter 3, Mail Privileges (Section 006.04). Inserts in publications may be removed from the publication if the inserts are contraband. This includes, but is not limited to fragrance and lotion samples. The inserts may be removed without notice to the incarcerated individual. After the inserts that are contraband are removed from the publication, the publication can be delivered to the incarcerated individual.

	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 8 of 16
STATEMENT OF AVAILABILITY			
Law Library Access			

- c. Address stickers are contraband. Envelopes with address stickers shall be returned to sender.

3. Funds Received

- a. Money orders or checks found to be contained in any incoming mail, such will be credited in accordance with Policy 113.02, *Inmate Accounting*. Notification of such credit will be provided to the incarcerated individual by the business manager/designee of the appropriate facility. Senders of checks or money orders must be certain that their first and last names and complete address appear on the check, money order or envelope. A receipt will be issued to the incarcerated individual by the business manager/designee of the appropriate facility.

All financial instruments must be receipted even if not delivered to the incarcerated individual.

- b. Travelers checks found in any incoming mail will not be accepted by the facility. Cash/coin will be placed on the incarcerated individual's confiscated account. The incarcerated individual will be notified of this action. A receipt will be issued to the incarcerated individual by the business manager/designee of the appropriate facility. Incarcerated individuals shall be instructed to inform family and friends of these requirements. (ACI-7D-07)
- c. Incarcerated individuals may not receive money or money equivalent (in any form) from family/friends of other incarcerated individuals or any persons on the approved visiting list of other incarcerated individuals or per Policy 113.02, *Inmate Accounting*.

- 4. Incarcerated individuals are not allowed to receive communication by facsimile machine or by telegram.


B. Incoming mail photocopy procedures for facilities designated by a deputy director. (ACI-7D-04)

All provisions of Process II.A. above apply to this Process unless noted otherwise. No incoming mail shall be scanned or electronically saved and must only be photocopied.

Incoming mail shall be sorted and date stamped to separate incarcerated individual privileged mail and incarcerated individual regular mail. Mailroom team members will locate and verify all incarcerated individual mail and note the living location on the envelope. For privileged mail see Process II. C. below.

1. Mail Room Process


- a. Personal letters and greeting cards will be processed through the opener in the mailroom and placed in a tote.

	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 9 of 16
STATEMENT OF AVAILABILITY			
Law Library Access			

- b. Mailroom team members will notify a designated support team members to collect the tote. Designated team members shall report to the mailroom a minimum of once each hour to ensure timely processing of mail.
- c. Designated support team members will examine for contraband and make a photocopy of the entire correspondence.
- d. Correspondence with money orders and checks will be returned to the mailroom for logging, processing, and photocopying.
- e. All letters, cards and the envelopes will be photocopied and delivered to the incarcerated individual. Letters, greeting cards and other items mailed in that would normally be held for suspected contraband, stains, foreign substances and or glued items etc. will not be copied and will be held per current procedure. Cards, publications or other mail containing metal spirals or open/hollow spaces, and inserts including, but not limited to, buttons and recording devices are not allowed. Plastic spirals are allowed.
- f. Designated support team members making the photocopies will print two-sided, black and white letters and the envelope.
- g. Greeting Cards and Photographs

Greeting cards, photographs and pictures, including drawings, that are mailed in will be examined for any violation of policy and any signs of altering. If none are present the picture will be photocopied: in color; on a separate piece of regular paper; arranged so that no photos are touching; one sided unless writing is on the back, then it shall be two-sided; and delivered to the incarcerated individual with the photocopy of the letter and the envelope. Designated support team members will place the copy of the picture in the incoming mail making sure not to fold the photograph, unless the photographs are too large to completely copy.

Criteria of Photographs is the same for all NDCS facilities as listed in Process II.A.10.a. above.
- h. Designated support team members will return the original mail and photocopies to the mailroom. Mailroom will sort the allowed correspondence and place in the respective housing unit bins. Originals will be banded together and placed in a storage box in the mail room. The box with original correspondence will be dated for future reference and will be stored for 30 days. After 30 days all original correspondence will be disposed of. Incarcerated individuals will be permitted to mail out the original letter, photograph, drawing, etc. at their own expense within the 30 day time frame.
- i. Magazines, books, calendars, publications, and newspapers will follow Process II.A. above and will not be affected by the photocopy process.

	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 10 of 16
STATEMENT OF AVAILABILITY			
Law Library Access			

C. Privileged Mail (ACI-3D-02, ACI-7D-06, ACRS-6A-01)

1. Incarcerated individuals may send and receive sealed letters to and from the following entities:


- a. All federal and state officials – A federal or state official is a person elected or appointed to carry out a governmental function
- b. NDCS director and deputy directors
- c. Warden of any facility of NDCS
- d. Inspector General of Corrections and Ombudsmen
- e. Judges
- f. Members of the Nebraska Parole Board and members of the Nebraska Pardons Board
- g. Active Licensed Attorneys

Mail from these individuals will be treated as confidential and opened and inspected only in the presence of the incarcerated individual, unless waived in writing. The warden of the facility from which such mail originates shall choose to stamp any such outgoing mail disclaiming any administrative responsibility for the nature or contents of such mail.

2. Incoming Process

All incoming privileged mail will be logged on the *Privileged Mail Delivery Form* (Attachment D) by the mailroom supervisory sergeant or the mailroom personnel. Mailroom team members must sign and list the name of the addressee and sender/sender address on the *Privileged Mail Delivery Form* (Attachment D). The team member who delivers the privileged mail to an incarcerated individual must list their name and rank/position on the *Privileged Mail Delivery Form* (Attachment D). Upon delivery of any privileged mail, team members will provide the *Privileged Mail Delivery Form* (Attachment D) to the incarcerated individual. If the incarcerated individual refuses to sign this form, another team member will note "incarcerated individual refused to sign" on the *Privileged Mail Delivery Form* (Attachment D) and sign as a witness. The privileged mail will then be opened in the presence of the incarcerated individual. Mail opened and inspected under these circumstances will not be read unless there is clear and convincing evidence that the incoming mail threatens the safety, security, or good order of the facility.


All outgoing privileged mail will be logged on the *Privileged Mail Delivery Form* (Attachment D) upon being sent from the facility. The log shall contain the incarcerated individual's name and number, attorney/agency name, address, certified number (if applicable), date out, and cost of postage.

	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 11 of 16
STATEMENT OF AVAILABILITY			
Law Library Access			

- a. All incoming privileged mail will be screened by a member of the facility Intel Team for unusual odor, stains, feel/touch, mailing address and/or postage discrepancies before being processed for distribution.
 - b. If any discrepancies are noted, the item will be tested for illicit substances through the outside of the unopened envelope.
 - c. If the envelope tests positive for an illicit substance, it will be held as evidence and the NDCS investigations coordinator will be notified immediately.
 - d. If the discrepancy is based on visual observation or how the envelope is addressed, the team member will initiate contact with the office of the addressee to verify if the privileged mail was sent by the addressee.
 - e. If the privileged mail was not sent from the addressee listed on the envelope, it will not be considered privileged correspondence. The contents will be inspected for contraband and tested for illicit substances. If contraband or illicit substances are detected, all items will be held as evidence and the NDCS investigations coordinator will be notified immediately. If no contraband or illicit substances are detected the mail be will treated as held mail in accordance with policy.
 - f. After opening incoming mail, if the mailroom realizes it is privileged mail, the mailroom shall stop and treat it as privileged mail.
3. Incoming privileged mail photocopy procedures for the facilities designated by a deputy director.

Along with the process outlined above to prevent contraband or illicit substances from entering the facility, the additional steps listed below will occur, including the use of photocopying and shredding.

- a. All prescreened privileged mail will be delivered to the mailroom supervisory sergeant or shift supervisor's office and will be distributed to the incarcerated individual(s) by a member of the intel team, a security supervisor or the supervisory sergeant assigned to the mailroom.
- b. A secure location will be identified that has access to a copier and a document shredder. Photocopy machines used during this process cannot have image saving memory.
- c. Privileged mail larger than 8 ½ x 14 shall be reduced.
- d. Incarcerated individuals assigned to general population housing will be placed on pass to receive their privileged mail. For individuals assigned to non-general population housing, team members will deliver the mail to the

	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 12 of 16
STATEMENT OF AVAILABILITY			
Law Library Access			


incarcerated individual in the housing unit in accordance with these procedures.

- e. Incarcerated individuals must present their incarcerated individual ID to receive their privileged mail and will be presented with the Privileged Mail Delivery Form for signature of receipt of the privileged mail. If the incarcerated individual refuses to sign the form, another team member will note "incarcerated individual refused to sign" on the Privileged Mail Delivery Form and sign as a witness.
- f. The privileged mail will be opened in the presence of the incarcerated individual and inspected for contraband or illicit substances. The contents of the privileged mail will not be read unless there is clear and convincing evidence that the incoming mail threatens the safety, security, or good order of the facility.
- g. The privileged mail will be photocopied in the presence of the incarcerated individual, the photocopies will be provided to the individual, the individual will have the opportunity to verify all pages were copied, and the original documents will be shredded immediately while the individual is present.
- h. Envelopes using address stickers can be photocopied.

4. Illicit Substances and Contraband

- a. If there is evidence of illicit substances:
 - 1) The mail will be tested for illicit substances in the presence of the incarcerated individual.
 - 2) If the mail tests positive for illicit substances, it will be held as evidence and the NDCS investigations coordinator will be notified immediately.
 - 3) If the test is negative for illicit substances, the contents and envelope will be photocopied in the presence of the incarcerated individual. The photocopies will be provided to the incarcerated individual and the original documents will be shredded immediately while the incarcerated individual is present.
- b. Any contraband other than illicit substances which is removed from incoming privileged mail which is not returned to the sender may be turned over to law enforcement authorities for possible prosecution. Contraband not returned to the sender or given to law enforcement will be disposed of according to facility procedures.

If the privileged mail is found to contain items with a raised seal, identification, car titles, birth certificates, etc., these items will be forwarded to the addressee's central file in the Records Office.

	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 13 of 16
STATEMENT OF AVAILABILITY Law Library Access			

5. Incarcerated individuals in Restrictive Housing will observe the following procedures when sending privileged mail:
 - a. Prior to sealing the envelope, the incarcerated individual will show the contents to a team member through the cell door window.
 - b. Team members are only inspecting for contraband, they will not read the letter/contents. (ACI-7D-05)
 - c. The incarcerated individual will pass the envelope to team members after sealing it.


6. Mail addressed to or from individuals must include the name and title of that person. Mail addressed to an approved vendor or publisher is not required to contain the name of an individual. Mail from an organization to an incarcerated individual must include the name and title of an individual employed by the organization.

7. The name or firm affiliation of the sender must appear in commercial printing on the envelope, or the incoming mail will not be considered privileged mail unless noted otherwise below.
 - a. If the mailroom has a reasonable belief the incoming mail is privileged then it will be treated as privileged.
 - b. If the mailroom has a reasonable belief the mail is from the Court or court reporter, it will be treated as privileged mail.
 - c. If the mail is from Fed Ex, UPS, or another commercial carrier with a handwritten label indicating it is from the court or attorney, and the mailroom has a reasonable belief it is privileged mail, the mail will be treated as privileged.
 - d. If the mail is from the Child Support Enforcement Office or Parole Board and does not include the specific person/official name, the mail will not be treated as privileged mail.

8. Any incoming mail marked "Attorney-Client," or which in some other fashion is clearly indicated to be attorney-client communication, shall be opened only in the presence of the incarcerated individual-addressee.

III. INCARCERATED INDIVIDUAL TO INCARCERATED INDIVIDUAL MAIL

- A. Mail from incarcerated individuals in other correctional facilities or the same facility is presumed to constitute a threat to the safety, security or good order of the facility where the addressee resides. Such mail can be used to communicate escape plans, to arrange assaults and other violent acts, and to facilitate the development of informal organizations that threaten the security of correctional facilities.


	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 14 of 16
	STATEMENT OF AVAILABILITY Law Library Access		

- B. The wardens of the facilities where the incarcerated individuals reside may issue written permission for incarcerated individual to incarcerated individual correspondence. Such permission may be granted when the incarcerated individuals are immediate family (immediate family is defined as spouse, parent, step-parent, person acting in the place of parent as documented in the facility file, sibling, step-brother, step-sister, half-brother, half-sister, child, step-child, grandparent, grandchild) or the incarcerated individuals have a common interest in a legal matter and the warden determines that the addressee's receipt of such correspondence will neither threaten the safety, security or good order of the facility nor jeopardize the rehabilitative process of the addressee. Incarcerated individuals who are not immediate family and who desire to correspond regarding a parental interest in a child must show evidence of financial support of that child. Incarcerated individuals approved for incarcerated individual-to-incarcerated individual correspondence may include appropriate photographs with their correspondence. Once both wardens agree to allow two incarcerated individuals to correspond, this permission to correspond will be honored by other NDCS facilities/programs to which the incarcerated individual(s) may transfer. Permission to correspond is always subject to review and may be cancelled for good cause.
- C. When incoming mail from another incarcerated individual is denied, the mail will be returned to the sending facility along with a Notice of Returned/Damaged Mail (Attachment C). A copy of the Notice of Returned/ Damaged Mail will be given to the incarcerated individual to whom the mail was addressed. If either the sender or the addressee wishes to challenge the warden's decision to return the mail, the incarcerated individual may use the NDCS grievance mechanism set forth in NDCS Chapter 2.
- D. Incarcerated individuals may be allowed to correspond through the mail with other incarcerated individuals "out on bond." However, if there is a safety or security concern, such mail may be read by authorized team members. An incarcerated individual out on bond may not send money to incarcerated individuals. When mail is received from an incarcerated individual out on bond, any letter will be given to the addressee, however, any enclosed money order or check will be returned to the sender.

IV. MAIL CONSTITUTING THREATS TO THE FACILITY

Incoming and outgoing mail shall be read only when there is clear and convincing evidence that the mail could constitute a threat to the safety, security or good order of the facility or public. Whenever such mail is read, the reader shall record the name and facility number of the sender/addressee, the date of the reading, and the reasons why the mail was read.

After an item is read, it may be copied only if the warden/designee determines that the mail does in fact contain statements or information which could threaten the safety or security of persons or property outside the facility. Copies of any such mail shall be retained only so long as they are needed to complete an investigation of the apparent threat, or so long as they are needed as evidence in a disciplinary proceeding or criminal action.

	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 15 of 16
STATEMENT OF AVAILABILITY Law Library Access			

V. INDIGENT INCARCERATED INDIVIDUALS (ACI-7D-03, ACRS-6A-06)

A. Indigent incarcerated individuals shall receive five, first class, U.S. postage embossed envelopes per month or the equivalent in metered mail to send letters in order to maintain community ties. Indigent incarcerated individuals are those who have not had a balance of \$10.00 or more in their facility and/or regular savings account during the past thirty days. Incarcerated individuals shall have access to the courts for the sending of correspondence and pleadings regardless of their ability to pay postage. See Policy 116.01, *Inmate Rights*.

1. Indigent status incarcerated individuals will be allowed to write insufficient fund checks for postage in order to mail tort claims to the Office of Risk Management. Said mail will not be handled as privileged mail and may not be sealed by the incarcerated individual prior to placing it in the outgoing mail. Responses to the incarcerated individual will not be opened in the presence of the incarcerated individual.
2. Indigent postage does not include specialized USPS services (certified, return receipt).

B. Unwanted Correspondence


Incarcerated individuals may not send correspondence to a person who has notified the warden's office in writing that such correspondence is unwelcome. The incarcerated individual will be given a direct order not to send the unwelcome correspondence and such order will be documented in an incident report. The incarcerated individual who persists in writing after the direct order has been given is subject to a misconduct report for violation of Rule II.E. Outgoing mail addressed to an individual from an incarcerated individual who has been directed not to send mail based on the individual's request will be stopped and may be used as part of the disciplinary process.

VI. FORWARDING MAIL (ACI-7D-10, ACRS-6A-09)

When an incarcerated individual has been transferred to another correctional facility, the incarcerated individual's First Class mail will be forwarded. After an incarcerated individual is released, First Class mail will be forwarded if the Department has a forwarding address. If an incarcerated individual has been released and the Department does not have a forwarding address for the incarcerated individual, the mail will be returned to the sender. If the mail cannot be returned to sender, the mail shall be held for 60 days and then destroyed. If an incarcerated individual is deceased, mail is considered personal property and shall be consistent with Policy 204.01, *Inmate Property Control*.

REFERENCE

- I. STATUTORY REFERENCE AND OTHER AUTHORITY – None noted
- II. NDCS POLICIES
 - A. Policy 113.02, *Inmate Accounting*

	POLICY		
	INCARCERATED INDIVIDUAL MAIL		
	REVISED DATE December 31, 2023	NUMBER 205.01	PAGE 16 of 16
STATEMENT OF AVAILABILITY			
Law Library Access			

- B. Policy 116.01, *Inmate Rights*
- C. Policy 204.01, *Inmate Property Control*

III. ATTACHMENTS

- A. NDCS Rules and Regulations – Chapter 3 – Mail Privileges
- B. Notice of Held Mail (DCS-A-adm-099)
- C. Notice of Returned/Damaged Mail (DCS-A-adm-008)
- D. NDCS Privileged Mail Delivery Form

IV. AMERICAN CORRECTIONAL ASSOCIATION (ACA)

- A. Expected Practices for Adult Correctional Institutions (ACI) (5th edition): 5-ACI-3D-02, 5-ACI-7D-01, 5-ACI-7D-02, 5-ACI-7D-03, 5-ACI-7D-04, 5-ACI-7D-05, 5-ACI-7D-06, 5-ACI-7D-07, 5-ACI-7D-08, 5-ACI-7D-09, 5-ACI-7D-10
- B. Standards for Adult Community Residential Services (ACRS) (4th edition): 4-ACRS-6A-01, 4-ACRS-6A-06, 4-ACRS-6A-07, 4-ACRS-6A-08, 4-ACRS-6A-09