

Dear Senators DARRINGTON, Richardson & Burkett, and
Representatives CLARK, Leon Smith & Boe:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Dept. Of Correction: IDAPA 06.01.01 - Rules of the Board of Correction (Docket #06-0101-0801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 10-2-08. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 10-30-08.

_____The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Judiciary & Rules Committee and the House Judiciary, Rules & Admin. Committee

FROM: Katharine Gerrity, Principal Legislative Research Analyst

DATE: September 15, 2008

SUBJECT: Idaho Department of Correction

IDAPA 06.01.01 - Rules of the Board of Correction (Docket #06-0101-0801)

The Idaho Department of Correction submits notice of proclamation of rulemaking at IDAPA 06.01.01 - Rules of the Board of Correction. According to the Department, the purpose of the rule changes are to reflect current Department practices, standards, policies, procedures, and directives. The Department notes that the changes involve provisions relating to definitions, non-department literature distribution, custody of evidence, research requests, individuals present at executions and correspondence with inmates. The rule will be effective thirty days from the date of publication.

The proposed rule appears to be within the authority granted to the Department in Section 20-212, Idaho Code.

cc: Idaho Department of Correction
Lorenzo Washington

IDAPA 06 - BOARD OF CORRECTION

06.01.01 - RULES OF THE BOARD OF CORRECTION

DOCKET NO. 06-0101-0801

NOTICE OF PROCLAMATION OF RULEMAKING

EFFECTIVE DATE: The final effective date of this rule is October 31, 2008.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. Section 20-212, Idaho Code, requires the Idaho State Board of Correction to make rules. Pursuant to Section 20-212(1), Idaho Code, rules of the Idaho State Board of Correction are subject to review of the Idaho State Legislature pursuant to Sections 67-454, 67-5291, and 67-5292, Idaho Code, but no other provisions of Title 67, Chapter 52, Idaho Code, shall apply to the Board, except as otherwise specifically provided by statute. In accordance with Section 20-212(1) of the Idaho Code, this rule shall become final and effective thirty (30) days after the date of publication in the Idaho Administrative Bulletin.

PUBLIC HEARING SCHEDULE: Pursuant to Section 20-212(1), Idaho Code, public hearing(s) concerning this rulemaking will not be scheduled.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rulemaking is necessary to reflect current Idaho Department of Correction (IDOC) practices, standards, policies, procedures, and directives. Board of Correction rule changes are summarized by sections as follows:

101. Definitions - Amendment is necessary to make the IDAPA rule definitions consistent with the standardized terms and definitions approved by the IDOC's Standards and Operating Procedure Review Committee (SOPRC), which are being used in revised policies and procedures.

109. Literature Distribution - Amendment is necessary to clarify that this section only pertains to non-department literature and to include division chiefs and facility heads as authorities for approving the posting of any non-department literature.

116. Custody of Evidence - As requested by Representative Luker in the 2008 Legislative Session, amendment is necessary to ensure that the Department also disposes of contraband pursuant to any laws that are applicable.

134. Research Requests - As requested by Representative Luker and Chairman Smith in the 2008 Legislative Session, amendment is necessary to make it clear that the Internal Review and Human Subject Review Board's are not affiliated with the Department or the Board.

135. Executions - Amendment is necessary to make Subsection 135.06, Witnesses to the Execution, consistent with standard operating procedure (SOP) 135.02.01.001, *Execution Procedures*.

402. Correspondence with Inmates - Amendment is necessary to make Subsection 402.01, Incoming Mail; Subsection 402.02, Legal Mail; Subsection 402.03, Confidential Mail; and Subsection 402.04, Prohibited Mail, consistent with SOP 402.02.01.001, "Mail Handling in Correctional Facilities."

FEE SUMMARY: There is no increase in fees imposed with this rulemaking.

FISCAL IMPACT: There is no fiscal impact on general funds for this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because Section 20-212(1) exempts the Idaho State Board of Correction from conducting negotiated rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lorenzo Washington, Policy Program Coordinator, at (208) 658-2133.

DATED this 20th day of August, 2008.

Lorenzo Washington
Policy Program Coordinator
Idaho Department of Correction
1299 N Orchard St Suite 110
Boise, ID 83706
Ph: (208)658-2133; Fax: (208)327-7404

THE FOLLOWING IS THE TEXT OF DOCKET NO. 06-0101-0801

010. DEFINITIONS.

- 01. Archival Research.** Research requiring access to stored historical data, files, documentation, video or audio tapes, electronically sorted data, or written material. (11-5-99)
- 02. Attorney of Record.** An attorney appointed by a court or retained by an inmate in a legal action. (11-5-99)
- 03. Board.** The State Board of Correction. (11-5-99)
- 04. Case Management File.** An approved collection, ~~in either hand or electronic form,~~ of legal documents, reports, submissions, statements, and support materials used in making decisions about an inmate (offender), parolee, or probationer regarding classification, treatment, programming, management, and parole, or clemency. ~~(10-5-07)~~(10-31-08)
- 05. Chief.** The exempt employee in authority over a division of the Department. Chief is commonly referred to as the division chief. (10-5-07)
- 06. Commission of Pardons and Parole.** The decision-making body that has the authority to grant, revoke, reinstate, or refuse parole. The Commission of Pardons and Parole is commonly referred to as the Parole Commission. (10-5-07)
- 07. Contact Visiting.** Visiting where no physical partition, such as a window or wall, separates the visitor and the inmate. Physical touch may be allowed. (10-5-07)
- 08. Contraband.** Any thing, of any kind, that is prohibited by Board, Department, or facility rules, policies, directives, or standard operating procedures. Contraband also includes any thing, of any kind, that a facility head has not approved: (10-5-07)
- a.** For possession by an inmate; or (10-5-07)
- b.** To bring into a facility or onto Department property. (10-5-07)
- 09. Contractor.** A person who has entered into a contract with the Board or Department, or a contract with the State of Idaho administered by the Board or Department to provide any service. (11-5-99)
- 10. Department.** The State Department of Correction. (11-5-99)

11. **Department Property.** Real property owned, leased, operated, or managed by the Board or Department. (10-5-07)
12. **Directive.** A sequence of steps within a particular division to implement a procedure. (11-5-99)
13. **Director.** The director of the Department of Correction. (11-5-99)
14. **Division.** An operating unit of the Department. Department divisions are the divisions of Prisons, Community Corrections, Education and Treatment, and Management Services. (10-5-07)
15. **Execution.** The carrying out of a sentence of death. (11-5-99)
16. **Facility.** A building or residence, including the property and land where the building or residence is located, owned, leased, operated, or managed by the Board or Department. (10-5-07)
17. **Facility Head.** The person primarily responsible for overseeing, managing or operating a Department facility. (10-5-07)
18. **Field Memoranda.** Detailed guidelines to implement directives within a facility or a service unit of a division. (11-5-99)
19. **Health Authority.** The Department employee who is primarily responsible for overseeing or managing the Department's medical and mental health services. The health authority is commonly referred to as the *medical health services manager director*. (~~10-5-07~~)(10-31-08)
20. **Immediate Family -- Offender.** The immediate family of an inmate is: (10-5-07)
- a. The mother or father of the inmate, including step parent; (11-5-99)
- b. The brother or sister of the whole or half (1/2) blood or by adoption, or the stepbrother or stepsister of the inmate; (11-5-99)
- c. The wife or husband of the inmate, as proved by marriage license or other operation of law; (11-5-99)
- d. The natural child, adopted child or stepchild of the inmate; (11-5-99)
- e. The grandparents of blood relation to the inmate; or (11-5-99)
- f. The grandchildren of blood relation to the inmate. (11-5-99)
21. **Inmate.** An individual in the physical custody of the Board. (11-5-99)
- ~~22.~~ **Minor.** An individual less than eighteen (18) years old. (10-5-07)
- ~~23.~~ **Noncontact Visiting.** Visiting with an inmate where there are physical barriers between the visitor and the inmate and the inmate and visitor are not allowed to touch. Verbal communication is generally accomplished through telephones, speakers, or openings in the physical barrier designed to allow sound to pass. (10-5-07)
- ~~24.~~ **Non-Department Literature.** Notices, placards, banners, advertisements, and other writings not generated by the Department for Department distribution. (~~11-5-99~~)(10-31-08)
25. **Offender.** A person under the legal care, custody, supervision, or authority of the Board, including a person within or without the State pursuant to agreement with another state or contractor. (10-5-07)
26. **Parolee.** An offender who: (10-5-07)

- a. Is released from a facility by the paroling authority prior to the completion of his sentence; (10-5-07)
- b. Agrees to comply with certain conditions established by the paroling authority; and (10-5-07)
- c. Remains under the control of a probation and parole officer (PPO) for the established period of supervision. (~~10-5-07~~)(10-31-08)
27. **Penological Interests.** The security, programmatic, and rehabilitative interests of the Board and the Department. (11-5-99)
28. **Person.** An individual, corporation, governmental entity or organization, however organized or constituted. (11-5-99)
29. **Photo Identification.** A state issued driver's license, a state issued identification card displaying a photograph, a military issued identification card displaying a photograph, or a current valid passport. (10-5-07)
30. **Post Order.** A detailed set of guidelines and procedures for each post or area of employee assignment which governs and explains the duties of the employee assigned to the post or area of responsibility. (11-5-99)
31. **Probationer.** An offender who the courts allow to continue to live and work in the community, instead of being sent to prison, while being supervised by a probation and parole officer (PPO) for an established period of time. (~~10-5-07~~)(10-31-08)
32. **Procedure.** A sequence of steps or actions to be followed to implement and support a rule or policy. (11-5-99)
33. **Public.** A person, of the general public, that does not include offenders, contractors, vendors, volunteers, interns, or the employees of the Board, Department, or the Commission of Pardons and Parole. (10-5-07)
34. **Public Information Officer.** An employee of the Department designated by the director to be the primary contact person from whom the public and media may request information. (11-5-99)
35. **Regular Volunteer.** Any approved person, not employed by the Idaho Department of Correction (IDOC), who is at least eighteen (18) years of age and, of his own free will, provides good or services, for no monetary or material gain, to a facility and/or any of its sections. This person must: (10-5-07)
- a. Completed an application; (10-5-07)
- b. Receive volunteer and facility orientation training; and (10-5-07)
- c. Be approved by a facility head or designee. (10-5-07)
36. **Student Intern Volunteer.** An approved college or university student who, as part of an academic program, offers his time or services to help enhance the mission, activities, and programs of the Department, which also helps further his professional development. Some student interns may receive compensation from the Department. (See also Regular Volunteer.) (10-5-07)
37. **Tobacco Products.** Cigarettes, whether packaged or hand rolled, cigars, snuff, chew, or any other variation of a product containing tobacco. (11-5-99)
38. **Vendor.** A person who supplies goods or services to the Board or any operation or facility under the authority of the Board. (11-5-99)
39. **Visiting Staff.** Employees of the Department or the Commission of Pardons and Parole conducting business in the Department central office building on a regular or irregular basis. (10-5-07)

- 40. Visitor.** A member of the public, as defined herein, who is approved to visit a Department facility. (10-5-07)
- 41. Volunteer.** An approved person who volunteers or donates time or services to the Board or a Department operation or facility. (10-5-07)
- 42. Work Site.** Any place where inmates may be found when assigned to a work project. (11-5-99)

(BREAK IN CONTINUITY OF SECTIONS)

109. NON-DEPARTMENT LITERATURE DISTRIBUTION.

No person shall post any non-department literature or notice on or in any Department property or facility without approval of the director, ~~or designee~~ chief, or facility head. (~~11-5-99~~)(10-31-08)

(BREAK IN CONTINUITY OF SECTIONS)

116. CUSTODY OF EVIDENCE.

01. Evidence Retained. Items of evidence retained by the Department for use in any proceeding concerning an offender shall be maintained in a safe and secure manner until completion of the proceedings, including appeal. A member of the public claiming an interest in an item of evidence may file a written request with the Department for its return. (11-5-99)

02. Drugs Disposed Of. Items of evidence in the form of narcotics or other usable drugs shall be given to a law enforcement agency for disposal. (11-5-99)

03. Contraband Not Returned. Items of evidence which are now contraband or were contraband at the time they came into the possession of the Department shall not be given to any claimant but may be disposed of according to the Department's standard operating procedures and applicable state and/or federal laws. (~~10-5-07~~)(10-31-08)

(BREAK IN CONTINUITY OF SECTIONS)

134. RESEARCH REQUESTS.

The Board may allow access to records, employees and offenders in the custody of the Board for purposes of appropriate and ethical research relevant to the Board's penological interests. (11-5-99)

01. Archival Research. Archival research which is based solely on data collection from an existing data base will be conducted according to Idaho public records laws. (11-5-99)

02. Research Conducted on Offenders. Research conducted on offenders may be conducted by professional researchers, including private consultants and Department employees, graduate students supervised by graduate level professionals, or undergraduate students supervised by Department staff undertaking research projects implemented and designed by Department administrators. (11-5-99)

03. Required Documentation. A written proposal, a copy of the school's Internal Review or Human Subject Review Board approval (if applicable), and a copy of the consent form will be required for all requests to conduct research with offenders. Required documentation will be initially submitted to the facility head, or designee,

of the site where research is to take place. Required documentation must be submitted ninety (90) days prior to the proposed research start date. ~~(10-5-07)~~(10-31-08)

a. The written proposal will include a statement of the significance of the study, a research hypothesis or problem statement, an estimate of the time parameter for the project's completion, and a clear statement of the research methodology, a definition of the population, the sample selection, the design, ethical procedures, a discussion on dissemination of written research reports and legal parameters. (11-5-99)

b. The written proposal, copy of the Internal Review or Human Subject Review Board approval, and copy of the consent form will be reviewed by the facility head, or designee, of the site where the research is to take place. These documents will be reviewed for compatibility with Department goals, programs and needs for research. In addition, these documents may be rejected or returned for resubmission because there is a lack of compatibility with stated Board or Department goals, programs and needs for research, the research is inappropriate for conducting under the auspices of the Board or Department, or there is a failure to meet the required proposal criteria. (10-5-07)

c. Department employees conducting research at the request of the Department and professional researchers retained by the Department may be exempt from the requirement to submit a written research proposal. (11-5-99)

d. Department employees who wish to conduct research not requested by the Department must submit the required documentation noted in Subsection 134.03. (10-5-07)

e. Acceptable research proposals will be forwarded to the chief of the division where the research is to take place for final approval. Certain projects involving offenders should be approved with minimal review. Those projects include: (10-5-07)

i. Research conducted in a manner that does not link information gathered to the identity of the participants; (11-5-99)

ii. Research on regular and special instructional techniques; (11-5-99)

iii. Research involving the administration of standard tests, when information from the tests cannot be linked to the identities of the subjects; and (11-5-99)

iv. Research involving surveys or interview procedures where the responses cannot be identified back to the respondents. (11-5-99)

04. Rights of Offenders. The rights and welfare of any offender research subjects will be safeguarded at all times. (11-5-99)

05. Use of Offenders in Medical Experimentation Prohibited. The use or participation of offenders in medical, pharmaceutical or cosmetic experiments is expressly prohibited. (11-5-99)

06. Written Report Required. The principal researchers shall be required to provide the Department with a copy of the completed research results. (11-5-99)

07. Termination of Project. The director, any division chief, facility head, or designee may terminate approved research at any time for noncompliance with any rule, policy or procedure, directive, or condition previously agreed upon, or for cause generated by an emergency situation or at the discretion of the director. (10-5-07)

135. EXECUTIONS.

01. Personnel Assigned to Execution. Idaho Maximum Security Institution personnel will carry out the execution warrant. The facility head of the Idaho Maximum Security Institution shall be the official executioner. (11-5-99)

02. Method of Execution. Execution of the sentence of death shall be by lethal injection. If the

director determines that a competent lethal injection team cannot be assembled, execution shall take place by firing squad. (11-5-99)

03. Media Coordination. Department personnel will coordinate media activity and provide logistics and communications support. A media center shall be established. The pre-execution briefing will be delivered in the media center. Media witnesses will be chosen pursuant to Department procedure. The selection of media witnesses will occur in the media center. The post-execution briefing will occur in the media center. (11-5-99)

04. Public Information Officer to Handle Media Requests. The director will designate a public information officer to deal with execution-related media requests and releases of information. (11-5-99)

05. Parking and Demonstration Areas Provided. Areas for public and media parking will be provided and maintained in a secure manner. Areas for public gathering and demonstration of support or opposition to the death penalty will be provided and maintained in a secure manner. (11-5-99)

06. Witnesses to Individuals Present at the Execution. ~~An area will be provided for the gathering of official witnesses and media witnesses immediately prior to the scheduled execution.~~ A total of twenty-one (21) occupants is the limit in the execution ~~viewing area~~ facility at one (1) time. Persons allowed in the execution viewing area ~~during the execution procedures~~ are: ~~(11-5-99)~~(10-31-08)

a. ~~The injection team as identified by the facility head of the Idaho Maximum Security Institution~~ Idaho Department of Correction (IDOC) Staff; ~~(11-5-99)~~(10-31-08)

i. The injection team as identified by the facility head of the Idaho Maximum Security Institution (IMSI); (10-31-08)

ii. The director; (10-31-08)

iii. A representative from the Idaho Board of Correction; (10-31-08)

iv. The chief of the Division of Prisons; and (10-31-08)

v. IMSI facility head; (10-31-08)

b. ~~The director, the chief of the Division of Prisons, and the facility head of the Idaho Maximum Security Institution~~ Witnesses; ~~(10-5-07)~~(10-31-08)

ei. The coroner; (11-5-99)

ēii. The sheriff from the county of conviction; (11-5-99)

eiii. The prosecuting attorney from the county of conviction; (11-5-99)

fiv. A spiritual advisor of the inmate's choosing; (11-5-99)

gv. The sentencing judge; (11-5-99)

hvi. A representative from the Governor's office; (11-5-99)

ivii. The Attorney General or his representative; (11-5-99)

jviii. ~~A representative from the Board~~ A member of the victim's family; and ~~(10-5-07)~~(10-31-08)

ix. A friend or member of the offender's family; and (10-31-08)

kx. ~~The~~ A maximum of four (4) news media pursuant to Subsection 135.03. A maximum of seven (7) news media may attend as witnesses. ~~(11-5-99)~~(10-31-08)

(BREAK IN CONTINUITY OF SECTIONS)

402. CORRESPONDENCE WITH INMATES.

01. Incoming Mail. All incoming mail shall be opened and inspected to ensure it does not contain prohibited items as described in Section 402. Mail may be withheld subject to the provisions of Subsection 402.04 and 402.05. (10-5-07)

a. Books, magazines, ~~and~~ newspapers, and other publications may only be received directly from a legitimate publisher or other legitimate business source. Legitimacy of the source shall be in the sole discretion of the facility head or designee. (~~10-5-07~~)(10-31-08)

b. Any ~~cash~~, money order, or cashier's check enclosed will be credited to the inmate's trust account, except that money or other forms of exchange hidden or concealed in the correspondence shall be considered contraband and confiscated. Unapproved items of value not otherwise contraband must be returned to the sender at the inmate's expense within forty-five (45) days or they will be considered contraband and confiscated. (~~10-5-07~~)(10-31-08)

02. Legal Mail. Legal mail is confidential communication directly between an offender and an attorney (for the purposes of seeking or providing legal services only), an offender and the court, ~~and per court rules~~, opposing parties for service of documents ~~and~~ (pursuant to court rules), or sheriff offices for service of documents (pursuant to court rules). (~~10-5-07~~)(10-31-08)

a. To be recognized and treated as legal mail, correspondence from a legal source must be clearly marked "Legal Mail" and display the name, title and address of the sender. (10-5-07)

b. Mail that does not meet the requirements of Section 402 shall be treated as regular mail. (10-5-07)

c. Legal mail should be opened in the presence of the inmate and may be scanned to ensure that it does not violate the provisions of Section 402, Department policies, or division standard operating procedures. (10-5-07)

d. Legal mail that violates the provisions of Section 402, Department policies, or division standard operating procedures may be withheld. (10-5-07)

e. Any sender of legal mail that violates the provisions of Section 402, Department policies, or standard operating procedures may, at the sole discretion of the division chief, have all incoming and outgoing mail treated as regular mail. (10-5-07)

f. Any sender of legal mail that continues to violate the provisions of Section 402, Department policies, or standard operating procedures (or in the case of mail that is a serious threat to the secure and orderly operation of any Department facility) may not, at the sole discretion of the division chief, have his mail delivered to the inmate, and the inmate may also be restricted or prohibited from sending or receiving mail. (10-5-07)

03. Confidential Mail. Confidential mail includes correspondence sent to or received from persons or entities such as the following: the President of the United States, the governor, the Idaho Legislature or U.S. Congress (except for bulk mailings), the Board, the director, IDOC chiefs and deputy chiefs, facility heads, public interest groups or government entities providing assistance for offenders, the Idaho Commission of Pardons and Parole or any member thereof, or the Consulate or Embassy of an offender who is a foreign national. (10-5-07)

~~**a.** To be recognized and treated as confidential, mail from a confidential source must be clearly marked "Confidential Mail" and display the name, title and address of the sender. (10-5-07)~~

~~**ba.** Mail that does not meet the requirements of Section 402 shall be treated as regular mail.~~

Confidential mail should be opened in the presence of the inmate and may be scanned to ensure that it does not violate the provisions of this section, Department policies, or division standard operating procedures. (10-5-07)

eb. Confidential mail that violates the provisions of Section 402, Department policies, or division standard operating procedures may be withheld. (10-5-07)

ec. Any sender of confidential mail that violates the provisions of Section 402, Department policies, or standard operating procedures may, at the sole discretion of the facility head, be restricted or prohibited from sending mail to or receiving mail from any inmate. (10-5-07)

ed. Any sender of legal mail that continues to violate the provisions of Section 402, Department policies, or standard operating procedures (or in the case of mail that is a serious threat to the secure and orderly operation of any Department facility) may not, at the sole discretion of the division chief, have his mail delivered to the inmate, and the inmate may also be restricted or prohibited from sending or receiving mail. (10-5-07)

04. Prohibited Mail. Mail, including a publication, which poses a threat to the penological interests of the Board or Department, may be withheld from the inmate. Contraband will always be withheld without regard to this section. The Board has determined that some types of mail always pose a threat to penological interests. The following types of materials are prohibited: (10-5-07)

a. Items in a letter or package not authorized by policy or division standard operating procedures; (10-5-07)

b. Packages without prior authorization; (10-5-07)

c. Publications or items that describe the manufacture of weapons, bombs, explosives, alcohol and drugs, drug paraphernalia, or escape materials; (10-5-07)

d. Role-playing games and related materials; (10-31-08)

de. Information related to the crime or identity of another offender; (10-5-07)

ef. Promotional items such as fragrance packs, CDs, computer software, stickers, handbags, T-shirts, baseball caps, in publications, magazines, periodicals etc. (Promotional items will be destroyed and the publication will be forwarded so that the mail process is not delayed); (10-5-07)

fg. Fourth class mail/bulk mail Junk mail (mail that does not contain a typical Idaho Department of Correction [IDOC] offender mailing address [offender's name, IDOC number, facility, housing unit, etc.] and is similar to the following examples: direct marketing, mass mailings, sales flyers, credit card applications, coupons, etc.). Junk mail will be destroyed; (~~10-5-07~~)(10-31-08)

gh. More than one (1) subscription to the same periodical, magazine, etc.; (10-5-07)

hi. Publications or items evidencing gang involvement or activities (enemy lists, constitutions, structures, codes, signs, symbols, photographs, drawings, training material, clothing, etc.); (10-5-07)

ij. Publications or items advocating that any ethnic, racial, or religious group is inferior or that make such groups an object of ridicule and scorn. However, no publication will be withheld solely because of its appeal to a particular ethnic, racial, or religious group; (10-5-07)

jk. Publications or items that encourage violence between recipients and members of another group; (10-5-07)

kl. Publications not mailed direct from the publisher or a bookstore; (10-5-07)

lm. Clippings from magazines, books, or newspapers; (10-5-07)

m. Postage stamps or envelopes. (Postage stamps are allowed at CWC facilities if the CWC does not have commissary services); (10-5-07)

n. Greeting cards that are padded, laminated, musical, or larger than eight inches by ten inches (8" x 10"); (10-5-07)

o. Photographs larger than five inches by eight inches (5" x 8") and instant photographs, for example, "Polaroid type" with layers. Photocopies are not photographs and may be on standard eight and one-half inches by eleven inches (8.5" x 11") paper; and (10-5-07)

p. Other materials, which in the opinion of the facility head, present a threat to penological interests. (10-5-07)

05. Prohibited Sexually Explicit and Pornographic Materials. Nudity, sexually explicit, and pornographic materials are prohibited. Written material of a sexual nature is permitted and is not included in this definition. Publications that do not feature nudity, but contain nudity illustrative of medical, educational, or anthropological content may be excluded from this definition. (10-5-07)

a. Prohibited materials include pictorial depictions in books, pamphlets, magazines, periodicals, any other graphic images, or any other publication or any personal pictures, drawings, or any other graphic depiction, or photocopies of any of these items. (10-5-07)

b. Publications, drawings, photocopies, and other pictorial materials that meet the description of nudity in this section, but the person has clothing or other covering that is transparent or virtually transparent are not permitted. (10-5-07)

i. Nudity means a pictorial or graphic images depicting male or female genitalia, anus, or where the nipples or areola of female breasts are exposed; (10-5-07)

ii. Feature means that a publication contains pictorial depictions of nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one-time issues; and (10-5-07)

iii. Sexually explicit means a pictorial depiction of actual or simulated sexual acts including sexual intercourse, oral sex, or masturbation. (10-5-07)

06. Withholding of Prohibited Material. Any incoming mail suspected of containing any prohibited material defined in this section shall be withheld and reviewed by the facility head or designee to determine if it should be withheld or delivered to the inmate. If the facility head determines that the mail should be withheld, the offender will be given written notice. The offender may use the Department grievance procedure to contest the decision. (10-5-07)