

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

JANET JENKINS, et al.,

Plaintiffs,

v.

KENNETH L. MILLER, et al.,

Defendants.

No. 2:12-cv-184-WKS

**PLAINTIFFS' MOTION FOR LEAVE TO SERVE DISCOVERY DOCUMENTS ON
DEFENDANT PHILIP ZODHIATES THROUGH SERVICE ON DEFENDANTS
VICTORIA HYDEN AND RESPONSE UNLIMITED, INC. UNTIL DEFENDANT
PHILIP ZODHIATES OBTAINS NEW COUNSEL**

Plaintiffs Janet Jenkins and Isabella Miller-Jenkins, through undersigned counsel, move for leave to serve confidential and nonconfidential discovery productions and confidential discovery responses on Defendant Philip Zodhiates through service on Defendants Victoria Hyden and Response Unlimited, Inc. ("RUL") until Zodhiates obtains counsel new.

Good cause exists for granting this motion:

1. Rule 5(a)(1) of the Federal Rules of Civil Procedure requires Plaintiffs to "serve[] on every party . . . a discovery paper required to be served on a party, unless the court orders otherwise."
2. On November 18, 2019, the Court entered a protective order limiting the disclosure of "Plaintiffs' medical, mental health, financial, and other personal records, and information pertaining to the minor Plaintiff Isabella Miller-Jenkins" to "a. the parties; b. counsel of record in this action and their staff; c. experts and consultants retained for this action and their staff; d. court reporters; e. denoted stenographers; f. videographers; and g. the Court (including an appellate court reviewing this action) and its staff." Protective Order Re Pls.' Medical, Mental

Health, Financial, and Other Personal Rs., and Information Pertaining to the Minor Pl. Isabella Miller-Jenkins at ¶¶ 1, 8, ECF 410. The protective order also governs discovery responses containing confidential information. *Id.* ¶ 3.

3. On January 6, 2020, the Court granted the motion of Gravel & Shea PC for leave to withdraw as counsel for Zodhiates, ordered that Zodhiates “shall have thirty (30) days from the date of this order to obtain new counsel,” and ordered that “[n]ew counsel shall file a notice of appearance on or before February 5, 2020.” Order, ECF 449. As of the filing of this motion, Plaintiff is not aware that Zodhiates has obtained new counsel, and no new counsel has filed a notice of appearance. Soto Decl. ¶ 6.

4. Gravel & Shea PC also represented Hyden and RUL until the Court granted its motion to withdraw. Hyden is Zodhiates’s daughter. RUL is his company. *See* Entity Information at 1, Ex. 1. His son William Zodhiates is RUL’s CEO as of July 3, 2019. *Id.* at 2.

5. Before the Court granted Gravel & Shea PC’s motion for leave to withdraw as counsel, Plaintiffs served discovery documents, such as discovery requests, responses, and productions, on Zodhiates via email to his attorneys at Gravel & Shea PC. *See, e.g.*, Disc. Certificate at 2, ECF 390. In particular, discovery productions, which have included native files, such as audio, video, photo, and email, have been served by emailing Zodhiates’s attorneys a link to an online storage folder from which his attorneys could download the produced files. Soto Decl. ¶ 7.

6. According to Plaintiffs’ document management system, Plaintiffs have produced 1,399 documents with a Bates number range reaching 15,886. *Id.* ¶ 8. Plaintiffs are preparing to produce more documents, including confidential documents protected by the Court’s protective order, such as Jenkins’s financial records. *Id.*

7. Zodhiates currently is incarcerated at Ashland Federal Correctional Institution (“FCI Ashland”) in Ashland, Kentucky. *See* Inmate Locator, Ex. 2. His release date is June 24, 2021. *Id.*

8. Plaintiffs and their counsel are no experts on FCI Ashland’s policies and procedures, but Plaintiffs believe that Zodiates would likely be unable to receive and store hundreds, if not thousands, of pages of discovery materials; to receive, access, and store media, such as USB flash drives, CDs, or DVDs, by which he can access native files, such as audio, video, photo, and email; or to store confidential documents and discovery responses and prohibit access by other inmates or staff. Although Bureau of Prisons policies appear to allow Zodiates to receive legal mail that may not be read or copied by staff, *see* Correspondence, Program Statement No. 5265.14 at 14, 17, Ex. 3, and to allow Zodiates to store and lock personal property, such as legal mail, *see* Inmate Personal Property, Program Statement No. 5580.08 at 2–3, Ex. 4, storage space is limited, *id.* at 2, and Plaintiffs have no way to know whether Zodiates actually can accept all of Plaintiffs’ future document productions and prohibit access to confidential documents in his personal possession.

9. Plaintiffs believe it would be reasonable to allow them to serve confidential and nonconfidential discovery productions and confidential discovery responses on Zodiates through his daughter and his company unless and until he acquires new counsel. Plaintiffs expect that Zodiates, Hyden, and RUL likely will be jointly represented by new counsel, as they were by Gravel & Shea PC.

10. Until Zodiates acquires new counsel, Plaintiffs will serve all other documents, including nonconfidential discovery responses, on Zodiates in accordance with the applicable rules. Soto Decl. ¶ 9.

11. Gravel & Shea PC was unable to represent whether Zodhiates consents to being served discovery through service on Hyden or RUL. *Id.* ¶ 10.

CONCLUSION

For these reasons, the Court should grant Plaintiffs' motion for leave to serve confidential and nonconfidential discovery productions and confidential discovery responses on Zodhiates through service on Hyden and RUL until Zodhiates acquires counsel.

Respectfully submitted.

January 9, 2020

/s/ Frank H. Langrock

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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that, on this date, the foregoing document was served on the following counsel of record through the Court's CM/ECF system:

Brooks G. McArthur
Jarvis, McArthur & Williams, LLC
Counsel for Defendant Kenneth L. Miller

Horatio G. Mihet
Roger K. Gannam
Daniel Joseph Schmid
Liberty Counsel
*Counsel for Defendants Liberty Counsel, Inc. and
Rena M. Lindevaldsen*

Anthony R. Duprey
Neuse, Duprey & Putnam, PC
*Counsel for Defendants Liberty Counsel, Inc. and
Rena M. Lindevaldsen*

Norman C. Smith
Norman C. Smith, PC
Counsel for Defendant Linda M. Wall

Adam S. Hochschild
Hochschild Law Firm, LLC
Counsel for Defendant Linda M. Wall

Michael J. Tierney
Wadleigh, Starr & Peters, PLLC
Counsel for Defendant Timothy D. Miller

and on the following unrepresented parties by United States mail:

Defendant Philip Zodhiates (Register Number 18649-084)
FCI Ashland
Federal Correctional Institution
P.O. Box 6001
Ashland, Kentucky 41105

Defendant Victoria Hyden
1212 Saint Cloud Avenue
Lynchburg, Virginia 24502

Defendant Response Unlimited, Inc.
c/o William Zodiates
274 Shalom Road
Waynesboro, Virginia 22980

January 9, 2020

/s/ Diego A. Soto _____
Diego A. Soto
Counsel for Plaintiffs

Entity Information

Entity Information

Entity Name: RESPONSE UNLIMITED, INC.
Entity ID: F1551128
Entity Type: Stock Corporation
Entity Status: **Active**
Formation Date: N/A
Reason for Status: Active and In Good Standing
VA Qualification Date: 06/10/2003
Status Date: 07/23/2015
Industry Code: 0 - General
Period of Duration: Perpetual
Jurisdiction: DE
Annual Report Due Date: N/A
Registration Fee Due Date: N/A
Charter Fee: \$50.00

Registered Agent Information

RA Type: Individual
Locality: AUGUSTA
RA Qualification: Officer of the Corporation
Name: PHILIP ZODHIATES
Registered Office Address: 284 SHALOM RD, WAYNESBORO, VA, 22980 -
9111, USA

Principal Office Address

Address: 284 SHALOM RD, WAYNESBORO, VA, 22980 -
0000, USA

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https://www.scc.virginia.gov/clk/clk_contact.aspx

EXHIBIT

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(https://www.scc.virginia.gov/cis/cis_contact.aspx)

Principal Information

(https://www.facebook.com/VirginiaStateCorporationCommission)

(https://twitter.com/VASateCorpComm)

				Last Updated
Title	Director	Name	Address	
CEO	Yes	WILLIAM ZODHIATES	274 SHALOM RD, WAYNESBORO, VA, 22980 - 0000, USA	07/03/2019

Current Shares

Total Shares: 100

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**2019 ANNUAL REPORT
COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION**



219101257

- 1. CORPORATION NAME: **RESPONSE UNLIMITED, INC.** DUE DATE: **06/30/19**
- 2. VA REGISTERED AGENT NAME AND OFFICE ADDRESS: OFFCR. SCC ID NO.: **F155112-8**
PHILIP ZODHIATES
284 SHALOM RD
WAYNESBORO, VA 22980-9111
- 5. TOTAL NUMBER OF AUTHORIZED SHARES: **100**
- 3. CITY OR COUNTY OF VA REGISTERED OFFICE:
107-AUGUSTA COUNTY
- 4. STATE OR COUNTRY OF INCORPORATION:
DE-DELAWARE

DO NOT ATTEMPT TO ALTER THE INFORMATION ABOVE. Carefully read the enclosed instructions. Type or print in black only.

6. PRINCIPAL OFFICE ADDRESS:

<input type="checkbox"/> Mark this box if address shown below is correct	If the block to the left is blank or contains incorrect data please add or correct the address below.
ADDRESS: 284 SHALOM RD	ADDRESS:
CITY/ST/ZIP WAYNESBORO, VA 22980	CITY/ST/ZIP

7. DIRECTORS AND PRINCIPAL OFFICERS:

All directors and principal officers must be listed.
An individual may be designated as both a director and an officer.

Mark appropriate box unless area below is blank: <input type="checkbox"/> Information is correct <input type="checkbox"/> Information is incorrect <input type="checkbox"/> Delete information	If the block to the left is blank or contains incorrect data, please mark appropriate box and enter information below: <input type="checkbox"/> Correction <input type="checkbox"/> Addition <input type="checkbox"/> Replacement
OFFICER <input type="checkbox"/> DIRECTOR <input checked="" type="checkbox"/>	OFFICER <input checked="" type="checkbox"/> DIRECTOR <input checked="" type="checkbox"/>
NAME: PHILIP ZODHIATES	NAME: <i>William Zodhiates</i>
TITLE: P/S	TITLE: <i>CEO</i>
ADDRESS: 284 SHALOM RD	ADDRESS: <i>274 Shalom Rd, Waynesboro, VA 22980</i>
CITY/ST/ZIP: WAYNESBORO, VA 22980	CITY/ST/ZIP: <i>Waynesboro, VA 22980</i>



I affirm that the information contained in this report is accurate and complete as of the date below.

	<i>William Zodhiates / CEO</i>	<i>6/28/19</i>
SIGNATURE OF DIRECTOR/OFFICER LISTED IN THIS REPORT	PRINTED NAME AND CORPORATE TITLE	DATE

It is a Class 1 misdemeanor for any person to sign a document that is false in any material respect with intent that the document be delivered to the Commission for filing.



Federal Bureau of Prisons

Correctional Excellence. Respect. Integrity.

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Find an inmate.

Locate the whereabouts of a federal inmate incarcerated from 1982 to the present. Due to the First Step Act, sentences are being reviewed and recalculated to address pending Good Conduct Time changes. As a result, an inmate's release date may not be up-to-date. Website visitors should continue to check back periodically to see if any changes have occurred.

Find By Number

Find By Name

First

Middle

Last

Race

Age

Sex

1 Result for search **Philip Zodhiates**



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PHILIP ZODHIATES

Register Number: 18649-084

Age: 64

Race: White

Sex: Male

Located at: [Ashland FCI](#)

Release Date: 06/24/2021

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EXHIBIT

2



U.S. Department of Justice
Federal Bureau of Prisons

PROGRAM STATEMENT

OPI: CPD/CPB
NUMBER: 5265.14
DATE: April 5, 2011

Correspondence

/s/

Approved: Harley G. Lappin
Director, Federal Bureau of Prisons

1. PURPOSE AND SCOPE

§ 540.10 Purpose and scope.

The Bureau of Prisons encourages correspondence that is directed to socially useful goals. The Warden shall establish correspondence procedures for inmates in each institution, as authorized and suggested in this rule.

Institution guidelines concerning correspondence will be made widely available to staff and inmates through posting on bulletin boards, placement in the institution library, or other appropriate means.

a. **Summary of Changes**

Policy Rescinded

P5265.11 Correspondence (7/9/99)

This edition of the Program Statement incorporates changes that have occurred since its last publication and initiatives resulting from the Reduction and Elimination of Duties Management Assessment Project (REDMAP):

- Now requires that funds intended for an inmate's commissary account will be mailed by the sender directly to the centralized commissary account center.
- Eliminates outgoing special/legal mail drop-boxes.

Federal Regulations from 28 CFR are shown in this type.

Implementing instructions are shown in this type.

EXHIBIT

3

- Institutions with a TRULINCS-generated mailing label system will ensure inmates use the mailing labels on all outgoing correspondence.
- Eliminates requirement to obtain subsequent authorization for inmates' with prior approval to correspond with immediate family members or co-defendants housed in a federal or non-federal facility.

b. **Program Objectives.** Expected results of this program are:

- Inmates will be able to send and receive correspondence per established procedures.
- Incoming and outgoing general correspondence will be subject to monitoring, reading, and inspection.
- Restrictions on general correspondence will be enforced for an inmate because of misconduct or for classification purposes.
- Incoming correspondence deemed inappropriate will be rejected.
- An inmate without funds will be provided a limited amount of postage stamps and mailing materials.
- An inmate will be permitted to possess a limited quantity of postage stamps.
- An inmate will be permitted to receive funds through the mail.

c. **Pretrial, Holdover, and Detainee Inmates.** Specific sections of this Program Statement pertain to either designated inmates or inmates in pretrial, detainee, or holdover status.

2. DEFINITIONS

§ 540.2 Definitions.

(a) General correspondence means incoming or outgoing correspondence other than special mail. General correspondence includes packages sent through the mail.

General correspondence refers to traditional mail sent or received via the U.S. Postal Service. For the purpose of this policy, general correspondence refers to inmate mail only.

The Warden or designee must give prior approval for an inmate to receive or send a package (see the Program Statement **Mail Management Manual**). Procedures for incoming publications are discussed in the Program Statement **Incoming Publications**. Procedures for inmate electronic messaging are addressed in the Program Statement **Trust Fund Limited Inmate Computer System (TRULINCS) — Electronic Messaging**.

(1) *Open general correspondence* means general correspondence which is not limited to a list of authorized correspondents, except as provided in § 540.17.

28 CFR § 540.17 refers to Section 9 of this Program Statement.

(2) *Restricted general correspondence* means general correspondence which is limited to a list of authorized correspondents.

(b) *Representatives of the news media* means persons whose principal employment is to gather or report news for:

(1) A newspaper which qualifies as a general circulation newspaper in the community in which it is published. A newspaper is one of “general circulation” if it circulates among the general public and if it publishes news of a general character of general interest to the public such as news of political, religious, commercial, or social affairs. A key test to determine whether a newspaper qualifies as a “general circulation” newspaper is to determine whether the paper qualifies for the purpose of publishing legal notices in the community in which it is located or the area to which it distributes;

(2) A news magazine which has a national circulation and is sold by newsstands and by mail subscription to the general public;

(3) A national or international news service; or

(4) A radio or television news program, whose primary purpose is to report the news, of a station holding a Federal Communications Commission license.

(c) *Special mail* means correspondence *sent* to the following: President and Vice President of the United States, the U.S. Department of Justice (including the Bureau of Prisons), U.S. Attorneys Offices, Surgeon General, U.S. Public Health Service, Secretary of the Army, Navy, or Air Force, U.S. Courts (including U.S. Probation Officers), Members of the U.S. Congress, Embassies and Consulates, Governors, State Attorneys General, Prosecuting Attorneys, Directors of State Departments of Corrections, State Parole Commissioners, State Legislators, State Courts, State Probation Officers, other Federal and State law enforcement offices, attorneys, and representatives of the news media.

The Centers for Disease Control (CDC) is part of the U.S. Public Health Service; correspondence sent to the CDC is considered special mail.

An inmate is expected to use the special mail privilege responsibly. Refer questions concerning alleged abuses to the Office of General Counsel.

Special mail also includes correspondence *received from the following*: President and Vice President of the United States, attorneys, Members of the U.S. Congress, Embassies and Consulates, the U.S. Department of Justice (excluding the Bureau of Prisons but including U.S. Attorneys), other Federal law enforcement officers, State Attorneys General, Prosecuting Attorneys, Governors, U.S. Courts (including U.S. Probation Officers), and State Courts. For incoming correspondence to be processed under the special mail procedures (see §§ 540.18--540.19), the sender must be adequately identified on the envelope, and the front of the envelope must be marked “Special Mail — Open only in the presence of the inmate”.

28 CFR §§ 540.18-19 refers to Sections 10 and 11, respectively, of this Program Statement.

d. *Warden* is defined in 28 CFR 500.1, separately published, as “... the chief executive officer of a U.S. Penitentiary, Federal Correctional Institution, Medical Center for Federal Prisoners, Federal Prison Camp, Federal Detention Center, Metropolitan Correctional Center, or any federal penal or correctional institution or facility. ‘Warden’ also includes any staff member with authority explicitly delegated by any chief executive officer.”

3. MAIL DEPOSITORIES

§ 540.11 Mail depositories.

The Warden shall establish at least one mail depository within the institution for an inmate to place outgoing correspondence. The Warden may establish a separate mail depository for outgoing special mail. Each item placed in a mail depository must contain a return address. (see § 540.12(d)).

28 CFR § 540.12(d) refers to Section 4.d. of this Program Statement.

The Warden of Federal Detention Centers, Metropolitan Correctional Centers, and Metropolitan Detention Centers will establish a mail depository to allow an attorney to “hand-deliver” legal mail to the institution (see the **Mail Management Manual**). Other facilities housing pretrial inmates may also establish a mail depository for attorneys to “hand-deliver” special mail.

4. CONTROLS AND PROCEDURES

§ 540.12 Controls and procedures.

(a) The Warden shall establish and exercise controls to protect individuals, and the security, discipline, and good order of the institution. The size, complexity, and security level of the institution, the degree of sophistication of the inmates confined, and other variables require flexibility in correspondence procedures. All Wardens shall establish open general correspondence procedures.

Open general correspondence privileges may be given to inmates who are able to exercise them responsibly. Care should be taken during orientation and thereafter to help inmates understand their responsibility for open correspondence privileges.

(b) Staff shall inform each inmate in writing promptly after arrival at an institution of that institution's rules for handling of inmate mail. This notice includes the following statement:

The staff of each institution of the Bureau of Prisons has the authority to open all mail addressed to you before it is delivered to you. "Special Mail" (mail from the President and Vice President of the U.S., attorneys, Members of the U.S. Congress, Embassies and Consulates, the U.S. Department of Justice (excluding the Bureau of Prisons but including U.S. Attorneys), other Federal law enforcement officers, State Attorneys General, Prosecuting Attorneys, Governors, U.S. Courts (including U.S. Probation Officers), and State Courts) may be opened only in your presence to be checked for contraband. This procedure occurs only if the sender is adequately identified on the envelope and the front of the envelope is marked "Special Mail — Open only in the presence of the inmate." Other mail may be opened and read by the staff.

If you do not want your *general* correspondence opened and read, the Bureau will return it to the Postal Service. This means that you will not receive such mail. You may choose whether you want your general correspondence delivered to you subject to the above conditions, or returned to the Postal Service. Whatever your choice, special mail will be delivered to you, after it is opened in your presence and checked for contraband. You can make your choice by signing Part I or Part II.

If the inmate elects not to have his/her general correspondence opened and read or refuses to sign the notice, a copy of the refusal is forwarded to the mail room (notice follows this section).

Part I — General Correspondence to be Returned to the Postal Service

I have read or had read to me the foregoing notice regarding mail. I do not want my general correspondence opened and read. I REQUEST THAT THE BUREAU OF PRISONS RETURN MY GENERAL CORRESPONDENCE TO THE POSTAL SERVICE. I understand that special mail will be delivered to me, after it is opened in my presence and checked for contraband.

(Name)

(Reg. No.)

(Date)

Part II — General Correspondence to be Opened, Read, and Delivered

I have read or had read to me the foregoing notice regarding mail, I WISH TO RECEIVE MY GENERAL CORRESPONDENCE. I understand that the Bureau of Prisons may open and read my general correspondence if I choose to receive same. I also understand that special mail will be delivered to me, after it is opened in my presence and checked for contraband.

(Name)

(Reg. No.)

(Date)

Inmate _____, refused to sign this form. He (she) was
(NAME) (REG. NO.)

advised by me that the Bureau of Prisons retains the authority to open and read all general correspondence. The inmate was also advised that his (her) refusal to sign this form will be interpreted as an indication that he (she) wishes to receive general correspondence subject to the conditions in Part II above.

Staff Member's Signature

Date

The above notice is included as part of the Acknowledgment of Inmate (BP-A0407).

(c) Staff shall inform an inmate that letters placed in the U.S. Mail are placed there at the request of the inmate and the inmate must assume responsibility for the contents of each letter. Correspondence containing threats, extortion, etc., may result in prosecution for violation of federal laws. When such material is discovered, the inmate may be subject to disciplinary action, the written material may be copied, and all material may be referred to the appropriate law enforcement agency for prosecution.

(d) The inmate is responsible for filling out the return address completely on envelopes provided for the inmate's use by the institution. If the inmate uses an envelope not provided by the institution, the inmate is responsible for ensuring that the envelope used contains all return address information listed on the envelope provided by the institution.

All envelopes, whether preprinted envelopes ordered through UNICOR or written by the inmate, must have a return address with the:

- Inmate's name.
- Register number.
- Name of the institution.

- P.O. Box (or street address if there is no P.O. Box).
- City, state, and ZIP code.

In addition, all outgoing mail, for institutions with a TRULINCS-generated mailing label system, must utilize these mailing labels on all outgoing correspondence, in accordance with the Program Statement **Trust Fund Limited Inmate Computer System (TRULINCS) — Electronic Messaging**. Consistent with this TRULINCS Program Statement, if an inmate fails to place the TRULINCS-generated label on outgoing postal mail, the mail is returned to the inmate for proper preparation.

5. NOTIFICATION OF REJECTIONS

§ 540.13 Notification of rejections.

When correspondence is rejected, the Warden shall notify the sender in writing of the rejection and the reasons for the rejection. The Warden shall also give notice that the sender may appeal the rejection. The Warden shall also notify an inmate of the rejection of any letter addressed to that inmate, along with the reasons for the rejection and shall notify the inmate of the right to appeal the rejection. The Warden shall refer an appeal to an official other than the one who originally disapproved the correspondence. The Warden shall return rejected correspondence to the sender unless the correspondence includes plans for or discussion of commission of a crime or evidence of a crime, in which case there is no need to return the correspondence or give notice of the rejection, and the correspondence should be referred to appropriate law enforcement authorities. Also, contraband need not be returned to the sender.

The Warden may not delegate the authority to reject correspondence or sign notification letters below the level of Associate Warden.

Section 6.d outlines the basis for determining whether correspondence should be rejected. Returned Correspondence (BP-A0327) is used to notify the involved parties of the rejection. “Nuisance” contraband is returned to the sender using Stamps, Negotiable Instrument & Other Returned to Sender (BP-A0328).

The Warden acknowledges receipt of an appeal from the sender of a rejected letter and designates the appropriate staff to respond. When the Warden makes the initial rejection, a subsequent appeal by a non-inmate sender is referred to the Regional Office.

If the Warden is doubtful about the propriety of an incoming or outgoing letter or has questions concerning the interpretation of regulations, he/she may refer the problem to the Regional Correctional Programs Administrator or the Regional Counsel. In case of rejection, the offending content is reproduced and retained for a reasonable period (at least 3 months), to have it available if the rejection is appealed.

6. GENERAL CORRESPONDENCE

§ 540.14 General correspondence.

(a) Institution staff shall open and inspect all incoming general correspondence. Incoming general correspondence may be read as frequently as deemed necessary to maintain security or monitor a particular problem confronting an inmate.

(b) Except for “special mail,” outgoing mail from a pretrial inmate may not be sealed by the inmate and may be read and inspected by staff.

(c) (1) Outgoing mail from a sentenced inmate in a minimum or low security level institution may be sealed by the inmate and, except as provided for in paragraphs (c)(1)(i) through (iv) of this section, is sent out unopened and uninspected. Staff may open a sentenced inmate’s outgoing general correspondence:

(i) If there is reason to believe it would interfere with the orderly running of the institution, that it would be threatening to the recipient, or that it would facilitate criminal activity;

(ii) If the inmate is on a restricted correspondence list;

(iii) If the correspondence is between inmates (see § 540.17); or

28 CFR § 540.17 refers to Section 9 of this Program Statement.

(iv) If the envelope has an incomplete return address.

(2) Except for “special mail,” outgoing mail from a sentenced inmate in a medium or high security level institution, or an administrative institution may not be sealed by the inmate and may be read and inspected by staff.

See the Program Statement **Inmate Security Designation and Custody Classification** for identification of security levels.

(3) **Mail Monitoring.** Each institution establishes procedures for monitoring incoming and outgoing mail. Institutions may wish to give closer scrutiny to incoming and outgoing mail of inmates, for example, who:

- Participated in criminal activity of a sophisticated nature.
- Committed crimes that involved mail or fraudulent schemes.
- Are considered escape risks.

- Present management problems (i.e., interference /disruption of the orderly running of the institution).

The staff member designated to supervise correspondence may keep a list of such inmates. Monitoring procedures may not interfere with mail handling.

(4) **Reading and Inspection.** As stated in this section, all incoming general correspondence and outgoing mail in medium, high, and administrative institutions (except “special mail”) is subject to random reading by correctional staff. The objectives of reading mail differ from the objectives of inspection. For *inspection* (to which all incoming general correspondence is subjected), the objective is primarily to detect contraband. The random *reading* of mail is intended to reveal, for example, escape plots, plans to commit illegal acts, plans to violate institution rules, or other security concerns.

(5) **Disclosure.** When reading correspondence, a staff member may incidentally learn information about the private lives of inmates or their correspondents. Bureau staff must be sensitive to the fact that most information in correspondence is private, and must be handled discreetly. Unless there is a legitimate correctional concern relating to security, safety, orderly running of the institution, criminal activity, or inmate rehabilitation, the contents of reviewed correspondence should not be revealed to any other person.

(d) The Warden may reject correspondence sent by or to an inmate if it is determined detrimental to the security, good order, or discipline of the institution, to the protection of the public, or if it might facilitate criminal activity. Correspondence which may be rejected by a Warden includes, but is not limited to, correspondence which contains any of the following:

(1) Matter which is nonmailable under law or postal regulations;

(2) Matter which depicts, describes, or encourages activities which may lead to the use of physical violence or group disruption;

This includes any printed material individually identified as placing that inmate, another inmate, or staff at risk of assault or other safety concerns.

(3) Information of escape plots, of plans to commit illegal activities, or to violate Bureau rules or institution guidelines;

(4) Direction of an inmate’s business (See § 541.13, Prohibited Act No. 408). An inmate, unless a pre-trial detainee, may not direct a business while confined.

This does not, however, prohibit correspondence necessary to enable an inmate to protect property and funds that were legitimately the inmate’s at the time of commitment. Thus, for example, an inmate may correspond about refinancing an

existing mortgage or sign insurance papers, but may not operate a mortgage or insurance business while in the institution.

§ 541.13, Prohibited Act No. 408, refers to Chapter 4 of the Program Statement **Inmate Discipline and Special Housing Units**.

(5) Threats, extortion, obscenity, or gratuitous profanity;

(6) A code;

(7) Sexually explicit material (for example, personal photographs) which by its nature or content poses a threat to an individual's personal safety or security, or to institution good order; or

Nude or sexually suggestive photos (individual prints or copies as opposed to those from publications) present a special concern for personal safety, security, and good order. This is particularly true when the subject is an inmate's relative, friend, or acquaintance. For these reasons, ordinarily an inmate is not permitted to receive through the mail a personal photograph in which the subject is nude, displays genitalia or female breasts, or when the photo depicts sexual suggestive acts such as intercourse, fellatio, or sodomy.

The exclusion of this or similar materials is determined by whether it would be detrimental to an individual's safety or security, or to institution good order, if it were in the inmate's possession. For purposes of this section, clippings from publications are considered correspondence. For the rule on publications, see the Program Statement **Incoming Publications**.

(8) Contraband. (See § 500.1 of this chapter. A package received without prior authorization by the Warden is considered to be contraband.)

28 CFR 500.1 is contained in Section 2.d. of this Program Statement.

Multiple copies of printed materials intended for inmate distribution and third-party mailing are also considered contraband.

7. RESTRICTED GENERAL CORRESPONDENCE

§ 540.15 Restricted general correspondence.

(a) The Warden may place an inmate on restricted general correspondence based on misconduct or as a matter of classification.

For this restriction, the term "classification" is used to identify categories of behavior.

Determining factors include the inmate's:

(1) Involvement in any of the activities listed in § 540.14(d);

28 CFR § 540.14(d) is contained in Section 6.d. of this Program Statement.

(2) Attempting to solicit funds or items (e.g., samples), or subscribing to a publication without paying for the subscription;

(3) Being a security risk;

(4) Threatening a government official; or

(5) Having committed an offense involving the mail.

(b) The Warden may limit to a reasonable number persons on the approved restricted general correspondence list of an inmate.

A recommendation to place an inmate on restricted correspondence is made by the unit team during the inmate's program review or by the Unit Disciplinary Committee (UDC) or Disciplinary Hearing Officer (DHO), when restricted correspondence is required by an infraction of an institution rule.

Action taken by the UDC or DHO as a disciplinary sanction is ordinarily based on a finding of violation of correspondence regulations.

(c) The Warden shall use one of the following procedures before placing an inmate on restricted general correspondence.

(1) Where the restriction will be based upon an incident report, procedures must be followed in accordance with inmate disciplinary regulations (part 541, subpart B of this chapter).

Part 541, subpart B, refers to the Program Statement **Inmate Discipline and Special Housing Units**.

(2) Where there is no incident report, the Warden:

(i) Shall advise the inmate in writing of the reasons the inmate is to be placed on restricted general correspondence;

(ii) Shall give the inmate the opportunity to respond to the classification or change in classification; the inmate has the option to respond orally or to submit written information or both; and

(iii) Shall notify the inmate of the decision and the reasons, and shall advise the inmate that the inmate may appeal the decision under the Administrative Remedy Procedure.

(d) When an inmate is placed on restricted general correspondence, the inmate may, except as provided in §§ 540.16 and 540.17:

28 §§ CFR 540.16 and 540.17 refer to Sections 8 and 9, respectively, of this Program Statement.

(1) Correspond with the inmate's spouse, mother, father, children, and siblings, unless the correspondent is involved in an violation of correspondence regulations, or would be a threat to the security or good order of the institution;

The word "spouse" includes a common-law relationship which has previously been established in a state which recognizes this status. In states that do not, a common-law relationship is not considered "immediate family." For determination of applicable state laws, consult the Regional Counsel.

(2) Request other persons also to be placed on the approved correspondence list, subject to investigation, evaluation, and approval by the Warden; with prior approval, the inmate may write to a proposed correspondence to obtain a release authorizing an investigation; and

(3) Correspond with former business associates, unless it appears to the Warden that the proposed correspondent would be a threat to the security or good order of the institution, or that the resulting correspondence could reasonably be expected to result in criminal activity. Correspondence with former business associates is limited to social matters.

Verification Procedures. Each year it becomes more difficult to obtain information from law enforcement agencies on proposed correspondents. For this reason, staff attempt to secure information from other sources, including the inmate, the proposed correspondent, and the U.S. Probation Officer. Each institution develops its own verification procedures, depending on the sophistication of its inmates and resources for verification.

A release from the individual in question may be necessary (for example, under the Privacy Act) to complete the investigation. If a release is needed, the inmate is responsible for obtaining it, and is permitted to write to the correspondent for this purpose.

(e) The Warden may allow an inmate additional correspondence with persons other than those on the inmate's approved mailing list when the correspondence is shown to be necessary and does not require an addition to the mailing list because it is not of an ongoing nature.

8. INMATE CORRESPONDENCE WHILE IN SEGREGATION AND HOLDOVER STATUS

§ 540.16 Inmate correspondence while in segregation and holdover status.

(a) The Warden shall permit an inmate in holdover status (i.e., enroute to a designated institution) to have correspondence privileges similar to those of other inmates insofar as practical.

(b) The Warden shall permit an inmate in segregation to have full correspondence privileges unless placed on restricted general correspondence under § 540.15.

28 CFR § 540.15 refers to Section 7 of this Program Statement.

9. CORRESPONDENCE BETWEEN CONFINED INMATES

§ 540.17 Correspondence between confined inmates.

An inmate may be permitted to correspond with an inmate confined in any other penal or correctional institution if the other inmate is either a member of the immediate family, or is a party or witness in a legal action in which both inmates are involved. Such correspondence may be approved in other exceptional circumstances, with particular regard to the security level of the institution, the nature of the relationship between the two inmates, and whether the inmate has other regular correspondence. The following additional limitations apply:

Inmates must provide current documentation (dated within the past six months) to support both inmates are parties to or a witness in a current legal action. At subsequent inmate team reviews, inmates will provide supporting documentation to continue correspondence privileges.

(a) Such correspondence at institutions of all security levels may always be inspected and read by staff at the sending and receiving institutions (it may not be sealed by the inmate); and

If inspection of the correspondence reveals communication other than a legal matter, the unit manager will be advised and a determination will be made whether to disapprove further correspondence. If privileges are rescinded, the unit manager or designee will ensure mail room and trust fund staff are notified.

(b) (1) The appropriate unit manager at each institution must approve of the correspondence if both inmates are housed in Federal institutions and both inmates are members of the same immediate family or are a party or witness in a legal action in which both inmates are involved.

The Warden is appraised of unusual circumstances pertaining to a request (e.g., inmates who have Central Inmate Monitoring assignments and/or disruptive group members) to correspond, for members of the same immediate family or for inmates who are a party or witness in the same legal action, for inmates housed in federal facilities.

Normally, the approval of mail correspondence privileges will apply to electronic messages generated via TRULINCS. The approval of correspondence privileges for both inmates will remain in effect even if either is transferred within the Bureau. The unit team will forward a copy of the approved mail correspondence to the mail room and trust fund staff for processing.

Unit team staff will review the status of previously approved correspondence during the inmate's classification/program review. When denying an inmate's request to correspond with immediate family, the unit manager will document the reason(s) for the denial.

(2) The Wardens of both institutions must approve of the correspondence if one of the inmates is housed at a non-Federal institution or if approval is being granted on the basis of exceptional circumstances.

The Warden documents a denial or the rationale for approving the request for an inmate to correspond with an inmate, who is an immediate family member or a party or witness in the same legal action, housed in a non-federal facility/contract facility.

The approval of correspondence privileges for the inmate will remain in effect even when the inmate transfers within the Bureau. Unit team will review previously approved correspondence for either of the above circumstances. Unit team will forward a copy of the approval for mail correspondence to mail room staff.

10. SPECIAL MAIL

§ 540.18 Special mail.

(a) The Warden shall open incoming special mail only in the presence of the inmate for inspection for physical contraband and the qualification of any enclosures as special mail. The correspondence may not be read or copied if the sender is adequately identified on the envelope, and the front of the envelope is marked "Special Mail — Open only in the presence of the inmate".

Incoming mail meeting these requirements must be treated per this rule. The Warden may, however, treat incoming mail that does not meet all requirements for special mail handling in the same fashion as special mail, including opening it in the inmate's presence and inspecting it only for contraband. For example, mail from the chambers of a Federal judge or from a Member of Congress should be given special handling even if it does not have a special mail marking on the envelope.

Similarly, mail from an adequately identified sender that contains markings similar to the phrase “Special Mail — Open only in the presence of the inmate” may be given special handling. Examples of similar markings include “Attorney-Client — Open only in the presence of the inmate” and “Legal Mail — Open only in the presence of the inmate.”

(b) In the absence of either adequate identification or the “special mail” marking indicated in paragraph (a) of this section appearing on the envelope, staff may treat the mail as general correspondence and may open, inspect, and read the mail.

(c) (1) Except as provided for in paragraph (c)(2) of this section, outgoing special mail may be sealed by the inmate and is not subject to inspection.

(2) Special mail shall be screened in accordance with the provisions of paragraph (c)(2)(iii) of this section when the special mail is being sent by an inmate who has been placed on restricted special mail status.

(i) An inmate may be placed on restricted special mail status if the Warden, with the concurrence of the Regional Counsel, documents in writing that the special mail either has posed a threat or may pose a threat of physical harm to the recipient (e.g., the inmate has previously used special mail to threaten physical harm to a recipient).

(ii) The Warden shall notify the inmate in writing of the reason the inmate is being placed on restricted special mail status.

(iii) An inmate on restricted special mail status must present all materials and packaging intended to be sent as special mail to staff for inspection. Staff shall inspect the special mail material and packaging, in the presence of the inmate, for contraband. If the intended recipient of the special mail has so requested, staff may read the special mail for the purpose of verifying that the special mail does not contain a threat of physical harm. Upon completion of the inspection, staff shall return the special mail material to the inmate if the material does not contain contraband, or contain a threat of physical harm to the intended recipient. The inmate must then seal the special mail material in the presence of staff and immediately give the sealed special mail material to the observing staff for delivery. Special mail determined to pose a threat to the intended recipient shall be forwarded to the appropriate law enforcement entity. Staff shall send a copy of the material, minus the contraband, to the intended recipient along with notification that the original of the material was forwarded to the appropriate law enforcement entity.

(iv) The Warden shall review an inmate’s restricted special mail status at least once every 180 days. The inmate is to be notified of the results of this review. An

inmate may be removed from restricted special mail status if the Warden determines, with the concurrence of the Regional Counsel, that the special mail does not threaten or pose a threat of physical harm to the intended recipient.

(v) An inmate on restricted mail status may seek review of the restriction through the Administrative Remedy Program.

(d) Except for special mail processed in accordance with paragraph (c)(2) of this section, staff shall stamp the following statement directly on the back side of the inmate's outgoing special mail:

"The enclosed letter was processed through special mailing procedures for forwarding to you. The letter has neither been opened nor inspected. If the writer raises a question or problem over which this facility has jurisdiction, you may wish to return the material for further information or clarification. If the writer encloses correspondence for forwarding to another addressee, please return the enclosure to the above address."

The stamp includes the above statement, the name and address of the institution and space for the date.

11. LEGAL CORRESPONDENCE

§ 540.19 Legal correspondence.

(a) Staff shall mark each envelope of incoming legal mail (mail from courts or attorneys) to show the date and time of receipt, the date and time the letter is delivered to an inmate and opened in the inmate's presence, and the name of the staff member who delivered the letter. The inmate may be asked to sign as receiving the incoming legal mail. This paragraph applies only if the sender has marked the envelope as specified in § 540.18.

28 CFR § 540.18 refers to Section 10 of this Program Statement.

Staff are expected to develop a master log containing the above information. The inmate may be requested (but not required) to sign the log, indicating receipt of the legal mail. If the inmate refuses, staff note this in the log.

(b) The inmate is responsible for advising any attorney that correspondence will be handled as special mail only if the envelope is marked with the attorney's name and an indication that the person is an attorney, and the front of the envelope is marked "Special Mail — Open only in the presence of the inmate".

Legal mail shall be opened in accordance with special mail procedures (see § 540.18).

28 CFR § 540.18 refers to Section 10 of this Program Statement.

(c) Grounds for the limitation or denial of an attorney's correspondence rights or privileges are stated in part 543, subpart B. If such action is taken, the Warden shall give written notice to the attorney and the inmate affected.

Part 543, subpart B, refers to the Program Statement **Inmate Legal Activities**.

Any violation of the attorney/client correspondence privilege is referred to Regional Counsel, who, in conjunction with the Office of General Counsel, may restrict the inmate or attorney from further correspondence privileges.

(d) In order to send mail to an attorney's assistant or to a legal aid student or assistant, an inmate shall address the mail to the attorney or legal aid supervisor, or the legal organization or firm, to the attention of the student or assistant.

See the Program Statement **Inmate Legal Activities** for information concerning Bureau recognition of an attorney's assistant or legal aid student assistant.

(e) Mail to an inmate from an attorney's assistant or legal aid student or assistant, in order to be identified and treated by staff as special mail, must be properly identified on the envelope as required in paragraph (b) of this section, and must be marked on the front of the envelope as being mail from the attorney or from the legal aid supervisor.

12. INMATE CORRESPONDENCE WITH REPRESENTATIVES OF THE NEWS MEDIA

§ 540.20 Inmate correspondence with representatives of the news media.

(a) An inmate may write through "special mail" to representatives of the news media specified by name or title (see § 540.2(b)).

28 CFR § 540.2(b) refers to Section 2.b. of this Program Statement.

Properly identified and labeled correspondence from an inmate who is not on restricted mail status to qualifying news media representatives is sealed and forwarded without inspection, directly and promptly. Properly identified and labeled correspondence from an inmate on restricted special mail status is also sealed and forwarded promptly, but may be subject to inspection per procedures in Section 10. If there is doubt whether a representative qualifies, contact the Public Information Officer in the Central Office.

(b) The inmate may not receive compensation or anything of value for correspondence with the news media. The inmate may not act as reporter.

(c) Representatives of the news media may initiate correspondence with an inmate. Staff shall open incoming correspondence from representatives of the media and inspect for contraband, for its qualification as media correspondence, and for content which is likely to promote either illegal activity or conduct contrary to Bureau regulations.

See the Program Statement **News Media Contacts** on other aspects of contact with news media.

13. PAYMENT OF POSTAGE

§ 540.21 Payment of postage.

(a) Except as provided in paragraphs (d), (e), (f), and (i) of this section, postage charges are the responsibility of the inmate. The Warden shall ensure that the inmate commissary has postage stamps available for purchase by inmates.

Mail room staff should obtain postage rate charts from the local servicing post office and place them where inmates ordinarily have access — the mail room or housing units.

(1) **Postage Sold by Commissary.** The inmate commissary must have available sufficient stamp denominations to allow mailing letters in excess of 1 ounce, but not requiring an additional first-class stamp.

(2) **Purchase Limitation.** The Warden issues local guidelines, which ordinarily limit an inmate's commissary purchase per visit to 20 postage stamps (denomination for first-class, domestic, 1-ounce mailing), or the equivalent; if such visits are limited to once per week or less, the Warden may authorize an additional purchase of stamps.

(3) **Inmate Possession of Postage Stamps.** The Warden issues local guidelines, limiting an inmate's possession of stamps at one time to no more than 60 (denomination for first-class, domestic, 1-ounce mailing), or the equivalent. The Warden may authorize possession of stamps to a specified amount in excess of this limit. The stamps are to be maintained by the inmate in the same manner the stamps are sold or in the manner provided by the unit manager.

(4) **Approval for Additional Purchases.** An inmate may be authorized to purchase (per commissary visit) more than 20 postage stamps (denomination for first-class, domestic, 1-ounce mailing), or the equivalent, only upon approval of the associate warden. This authority may not be delegated below unit manager.

(b) Writing paper and envelopes are provided at no cost to the inmate. Inmates who use their own envelopes must place a return address on the envelope (see § 540.12(d)).

28 CFR § 540.12(d) refers to Section 4(d) of this Program Statement.

(c) Inmate organizations will purchase their own postage.

(d) An inmate who has neither funds nor sufficient postage and who wishes to mail legal mail (includes courts and attorneys) or Administrative Remedy forms will be provided the postage stamps for such mailing. To prevent abuses of this provision, the Warden may impose restrictions on the free legal and administrative remedy mailings.

(1) To prevent abuses of Bureau directives regarding purchase of postage, Wardens will:

- Provide an inmate who has neither funds nor postage up to five postage stamps (denomination for first-class, domestic, 1-ounce mailing) or the equivalent each week, for legal mail or Administrative Remedy filing
- Require an inmate who has, for at least two separate months, depleted his/her commissary account, obtained Government-paid postage stamps, and then restored money to the account to complete the form for reimbursement Request for Withdrawal of Inmate's Personal Funds (BP-199) for the amount of postage given for legal mail or Administrative Remedy filings. Commissary staff hold the BP-199 and charge it against the inmate's account as soon as he/she has funds (see the Program Statement **Trust Fund Management Manual**).
- Allow an inmate to purchase sufficient postage for legal mail or Administrative Remedy mailings. The amount may not exceed the limit for postage purchases.

(2) The associate warden makes a final determination whether the inmate is to receive postage under the conditions of this subsection. An "inmate without funds" means an inmate without sufficient commissary balance to purchase a postage stamp sufficient for first-class, 1-ounce domestic mailing. This authority may not be delegated below unit manager.

(e) When requested by an inmate who has neither funds nor sufficient postage, and upon verification of this status by staff, the Warden shall provide the postage stamps for mailing a reasonable number of letters at government expense to enable the inmate to maintain community ties. To prevent abuses of this provision, the Warden may impose restrictions on the free mailings.

Five letters per month are suggested as reasonable in most circumstances. To prevent abuses, the Warden may require reimbursement as provided in Section 13(d)(1). The associate warden (not to be delegated below unit manager) makes a final determination on whether the inmate is to receive postage under this subsection.

In making this determination, an “inmate without funds” means an inmate without sufficient commissary balance to purchase a postage stamp sufficient for first-class, 1-ounce domestic mailing, or postage for half-ounce international air mail for an inmate whose community ties require foreign correspondence.

(f) Mailing at government expense is also allowed for necessary correspondence in verified emergency situations for inmates with neither funds nor sufficient postage.

The associate warden makes a final determination whether the inmate is to receive postage stamps under this subsection. This authority may not be delegated below unit manager.

(g) Inmates must sign for all stamps issued to them by institution staff.

A separate log is kept for this purpose.

(h) Mail received with postage due is not ordinarily accepted by the Bureau of Prisons.

The mail room staff refuses postage-due mail. However, if such mail is tendered to mail room staff without collection of postage due, it is processed without further collection action (see the **Mail Management Manual**).

(i) Holdovers and pre-trial commitments will be provided a reasonable number of stamps for the mailing of letters at government expense.

Three letters per week is suggested as reasonable in most circumstances. Commissary purchase of postage is also available to pretrial inmates. For holdovers, additional Government-furnished postage stamps may be allowed for special needs demonstrated by the inmate.

(j) Inmates may not be permitted to receive stamps or stamped items (e.g., envelopes embossed with stamps, postal cards with postage affixed) other than by issuance from the institution or by purchase from commissary.

Stamps and stamped items sent into the institution are returned to the sender. Indicate the reason for return on Form BP-A0328, Stamps, Negotiable Instrument & Other Returned to Sender. A copy of the form is placed with the correspondence for delivery to the inmate. See the **Mail Management Manual** for further information.

k. The institution’s business manager is responsible for the purchase and security of stamps purchased by the Bureau for issue to inmates per Section 13.d. The business manager also conducts quarterly audits.

14. SPECIAL POSTAL SERVICES

§ 540.22 Special postal services.

The information in this section was extracted from the **Mail Management Manual**. See that policy for more detailed information.

(a) An inmate, at no cost to the government, may send correspondence by registered, certified, or insured mail, and may request a return receipt.

(b) An inmate may insure outgoing personal correspondence (e.g., a package containing the inmate's hobbycrafts) by completing the appropriate form and applying sufficient postage.

The Request Authorization to Mail Inmate Package (BP-329) form is used.

(1) In the event of loss or damage, any claim relative to this matter is made to the U.S. Postal Service, either by the inmate or the recipient. The U.S. Postal Service will only indemnify a piece of insured mail for the actual value of an item, regardless of declared value.

When an inmate decides that a claim is necessary for an incoming piece of insured mail, he/she is advised that the mailer is the most appropriate person to file the claim with the U.S. Postal Service.

(2) Inmate packages forwarded as a result of institution administration are considered official mail, except as otherwise specified (for example, hobbycraft articles mailed out of the institution). Official mail is not insured. If such an item is subsequently lost or damaged in the mail process the inmate may file a tort claim with the Bureau of Prisons (see part 543, subpart C of this chapter).

Such packages are forwarded as official mail at Government expense. If documentation indicates that the package left Bureau control and was lost or damaged by the U.S. Postal Service (or mailed via a contract mail provider), the inmate is instructed to file a tort claim with the U.S. Postal Service (or directly with the contract mail provider) (see the Program Statement **Federal Tort Claims Act**). Hobbycraft articles are discussed in the Program Statement **Inmate Recreation Programs**.

(c) Certified mail is sent first class at the inmate's expense.

The inmate must pay basic postage, costs of certification, and costs of a return receipt (if requested).

(d) An inmate may not be provided such services as express mail, COD, private carriers, or stamp collecting while confined.

15. INMATE FUNDS RECEIVED THROUGH THE MAILS

§ 540.23 Inmate funds received through the mails.

Except as provided for in part 506 of this chapter, funds enclosed in inmate correspondence are to be rejected. Deposits intended for the inmate's commissary account must be mailed directly to the centralized commissary account (see 28 CFR part 506).

Section 2 of the Acknowledgment of Inmate, Part 1 & 2 (BP-A0407) contains an authorization for disposition of funds. The inmate ordinarily completes this form upon initial entry into Bureau custody. Negotiable instruments must include the inmate's full name and register number.

Negotiable instruments received through the mail enclosed in inmate correspondence are rejected using the Stamps, Negotiable Instrument and Other Returned to Sender form (BP-A0328).

Inmates are not permitted to receive unsolicited funds through the mail, nor are inmates permitted to solicit funds or initiate requests for funds other than from family and friends.

b. Staff should be alert to unusual activity concerning funds received for posting to an inmate's account or being mailed out of the institution. For example, accounting technicians, unit staff and others should notify the unit manager when an inmate receives a large amount of money either in a lump sum or over a short period of time or has unusual activity in his/her account. The unit manager determines whether an appropriate reason exists for such activity or if a referral to the captain is necessary.

16. RETURNED MAIL

§ 540.24 Returned mail.

Staff shall open and inspect for contraband all undelivered mail returned to an institution by the Post Office before returning it to the inmate. The purpose of this inspection is to determine if the content originated with the inmate sender identified on the letter or package; to prevent the transmission of material, substances, and property which an inmate is not permitted to possess in the institution; and to determine that the mail was not opened or tampered with before its return to the institution. Any remailing is at the inmate's expense. Any returned mail qualifying as "special mail" is opened and inspected for contraband in the inmate's presence.

17. CHANGE OF ADDRESS AND FORWARDING OF MAIL FOR INMATES

§ 540.25 Change of address and forwarding of mail for inmates.

(a) Staff shall make available to an inmate who is being released or transferred appropriate Bureau of Prisons and U.S. Postal Service forms for change of address.

A U.S. Postal Service “Change of Address” kit is made available to each inmate being transferred to notify correspondents. (**Note:** The “kit” is a notice to publishers, businesses, correspondents, etc.; it is **not** a notification to the U.S. Postal Service.) Staff obtain supplies of these kits from the servicing U.S. postal facility. Kits are kept in Receiving and Discharge and the mail room for inmates leaving the institution.

(b) Inmates are responsible for informing their correspondents of a change of address.

(c) Postage for mailing change of address cards is paid by the inmate.

(d) Except as provided in paragraphs (e) through (g) of this section, all mail received for a released or transferred inmate will be returned to the U.S. Postal Service for disposition in accordance with U.S. Postal Service regulations.

(e) Staff shall use all means practicable to forward special mail.

The Program Statement **Mail Management Manual** provides more detailed instructions on forwarding inmate special mail.

(f) Staff shall forward inmate general correspondence to the new address for a period of 30 days.

Inmate general mail (as opposed to special mail) is forwarded to the new address for 30 days. General mail is forwarded to the address in the SENTRY database. After 30 days, general mail is returned to the sender with the notation “Not at this address — return to sender.”

(g) Staff shall permit an inmate released temporarily on writ to elect either to have general correspondence held at the institution for a period not to exceed 30 days, or returned to the U.S. Postal Service for disposition.

Use the form Disposition of General Correspondence While Inmate is Released Temporarily on Writ (BP-A0398).

(1) If the inmate refuses to make this election, staff at the institution shall document this refusal, and any reasons, in the inmate’s central file. Staff shall

return to the U.S. Postal Service all general correspondence received for such as inmate after the inmate's departure.

Document the refusal on the Disposition of General Correspondence While Inmate is Released Temporarily on Writ (BP-A0398).

(2) If the inmate does not return from writ within the time indicated, staff shall return to the U.S. Postal Service all general correspondence being held for that inmate for disposition in accordance with postal regulations.

18. INSTITUTION SUPPLEMENT

Each institution must update its Institution Supplement (IS) and forward a copy to the Regional Correctional Programs Administrator. The IS includes:

- Designation of a staff member to supervise inmate correspondence.
- Procedures for monitoring incoming and outgoing mail, including inspection and reading mail, especially to and from particular inmates.
- Use of a master log to note receipt and inmate acknowledgment of incoming legal mail.
- Limitations on the amount of postage stamps an inmate may possess and single purchases of stamps.
- Restrictions on free legal and administrative remedy mailings.

REFERENCES

Program Statements

P1315.07	Legal Activities, Inmate (11/5/99)
P1320.06	Federal Tort Claims Act (8/1/03)
P1330.16	Administrative Remedy Program (12/31/07)
P1480.05	News Media Contacts (9/21/00)
P4500.07	Trust Fund/Deposit Fund Manual (4/19/10)
P5100.08	Inmate Security Designation and Custody Classification (9/12/06)
P5265.13	Trust Fund Limited Inmate Computer System (TRULINCS) — Electronic Messaging (2/19/09)
P5266.10	Incoming Publications (1/10/03)
P5270.08	Inmate Discipline and Special Housing Units (12/4/09)
P5370.11	Recreation Programs, Inmate (6/28/08)
P5800.16	Mail Management Manual (4/5/11)
P5800.15	Correctional Systems Manual (1/01/09)
P7331.04	Pretrial Inmates (1/31/03)

Federal Regulations

Federal Regulations cited in this Program Statement are contained in 28 CFR part 540.

ACA Standards

- 2nd Edition Standards for Administration of Correctional Agencies: 2-CO-5D-01
- 4th Edition Standards for Adult Correctional Institutions: 4-4266, 4-4275, 4-4279, 4-4487, 4-4488, 4-4489, 4-4491, 4-4492 and 4-4496
- 4th Edition Standards for Adult Local Detention Facilities: 4-ALDF-2A-60, 4-ALDF-6A-02, 4-ALDF-6A-04, 4-ALDF-5B-05, 4-ALDF-5B-06, 4-ALDF-5B-08 and 4-ALDF-5B-09

Records Retention Requirements

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on Sallyport.



U.S. Department of Justice
Federal Bureau of Prisons

PROGRAM STATEMENT

OPI: CPD/CSB
NUMBER: 5580.08
DATE: August 22, 2011

Inmate Personal Property

/s/

Approved: Thomas R. Kane
Acting Director, Federal Bureau of Prisons

1. PURPOSE AND SCOPE

§ 553.10 Purpose and scope.

It is the policy of the Bureau of Prisons that an inmate may possess ordinarily only that property which the inmate is authorized to retain upon admission to the institution, which is issued while the inmate is in custody, which the inmate purchases in the institution commissary, or which is approved by staff to be mailed to, or otherwise received by an inmate. These rules contribute to the management of inmate personal property in the institution, and contribute to a safe environment for staff and inmates by reducing fire hazards, security risks, and sanitation problems which relate to inmate personal property. Consistent with the mission of the institution, each Warden shall identify in writing that personal property which may be retained by an inmate in addition to that personal property which has been approved by the Director for retention at all institutions.

a. **Summary of Changes.** This revision includes the following:

Policy Rescinded

P5580.07 Inmate Personal Property (12/28/05)

Federal Regulations from 28 CFR are in this type.
Implementing instructions are in regular type.

EXHIBIT
4

- Updates lists of inmate property.
- Removes requirement for radios to be engraved.
- Clarifies the process of confiscation and disposition of cash and negotiable instruments as contraband.
- Removes Attachment B – Approved Athletic/Specialty Shoe. Attachment A and B are incorporated into one attachment.

b. **Program Objectives.** The expected results of this program are:

- Inmates will be permitted to retain and store authorized personal property.
- Contraband items found in the possession of inmates or in inmate living or work areas will be properly identified, processed, and discarded.

c. **Pretrial/Holdover Procedures.** Procedures required in this Program Statement apply to pretrial and holdover inmates.

2. LIMITATIONS ON INMATE PERSONAL PROPERTY

§ 553.11 Limitations on inmate personal property.

(a) Numerical limitations. Authorized personal property may be subject to numerical limitations. The institution's Admission and Orientation program shall include notification to the inmate of any numerical limitations in effect at the institution and a current list of any numerical limitations shall be posted on inmate unit bulletin boards.

(b) Storage space. Staff shall set aside space within each housing area for use by an inmate. The designated area shall include a locker or other securable area in which the inmate is to store authorized personal property. The inmate shall be allowed to purchase an approved locking device for personal property storage in regular living units. Staff may not allow an inmate to accumulate materials to the point where the materials become a fire, sanitation, security, or housekeeping hazard.

The amount of space provided depends upon the number of inmates assigned to that housing area.

Allowing an inmate to retain excess personal property increases the likelihood that property will be damaged or lost, and thereby increases the risk to the Bureau of liability claims.

By providing secured space, and adhering to guidelines on retention of property, the individual inmate has responsibility for securing personal property.

(c) Clothing. Civilian clothing (i.e., clothing not issued to the inmate by the Bureau or purchased by the inmate from the commissary) ordinarily is not authorized for retention by the inmate. Civilian clothing which previously had been approved for retention may not be retained after August 6, 1999. Prerelease civilian clothing for an inmate may be retained by staff in the Receiving and Discharge area during the last 30 days of the inmate's confinement.

- **Blue/Black/Red/Camouflage Clothing.** No inmates may be issued, permitted to purchase, or have in their possession **any** clothing items, or pieces of cloth, in the aforementioned colors.
- **Civilian Clothing.** All inmates are prohibited from wearing any clothing not government-issued or purchased in the commissary.

(1) **Commissary Clothing Inventory.** Wardens will restrict clothing to the following colors:

- Only gray and/or white clothing may be sold in institutions for males and only pastel green, gray, and/or white may be sold in institutions for females.
- The only exception is for religious headgear.

(2) **Shoes.** The following may be stocked or sold through the SPO process:

- Athletic, specialty shoes (i.e., a court, turf, basketball, or running shoe) (\$100 maximum selling price with no pumps, no pockets) in black or white, or a combination of black or white, or with gray markings (no other colors allowed). (2 pr)
- Casual (such as hushpuppies). (1 pr)
- Shower. (1 pr)
- Slippers. (1 pr)
- Work (ASTM Standard F2412-05 and F2413-05). (1 pr)

Commissaries will be the sole source for inmates to purchase athletic shoes and only supply shoes that sell for \$100 or less.

(d) Legal materials. Staff may allow an inmate to possess legal materials in accordance with the provisions on inmate legal activities (see § 543.11 of this chapter).

(e) Hobbycraft materials. Staff shall limit an inmate's hobby shop projects within the cell or living area to those projects which the inmate may store in designated personal property containers. Staff may make an exception for an item (for example, a painting) where size would prohibit placing the item in a locker. This exception is made with the understanding that the placement of the item is at the inmate's own risk. Staff shall require that hobby shop items be removed from the living area when completed, and be disposed of in accordance with the

provisions of part 544, subpart D of this chapter.

Part 544, Subpart D refers to the Program Statement **Inmate Recreation Programs**, which sets limits on the amount of materials which can be purchased quarterly.

(f) Radios and Watches. An inmate may possess only one approved radio and one approved watch at a time. The inmate must be able to demonstrate proof of ownership. An inmate who purchases a radio or watch through a Bureau of Prisons commissary is ordinarily permitted the use of that radio or watch at any Bureau institution if the inmate is later transferred. If the inmate is not allowed to use the radio or watch at the new institution, the inmate shall be permitted to mail, at the receiving institution's expense, the radio or watch to a destination of the inmate's choice. Where the inmate refuses to provide a mailing address, the radio and/or watch may be disposed of through approved methods, including destruction of the property.

Inmates may not retain other audio equipment, such as tape players/recorders, or radios with tape players/recorders, except as provided for the Program Statement **Legal Activities, Inmate** or as sold through the Commissary.

Where appropriate, certain department heads (e.g., Supervisor of Education, Supervisory Chaplain, and/or Unit Manager) may provide this type of equipment for use by inmates participating in self-study courses or other programs.

Such equipment will only be used in the program area and will not be permitted in inmate living quarters, except in medical centers where inmates are medically confined to the unit.

Wardens will take steps to reasonably accommodate inmates with disabilities in conformance with the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in Federally-assisted programs.

In such cases, appropriate security procedures must be developed, and both tape players and tapes be limited to those available through state and Federal agencies providing these services to the disabled.

A Warden may determine that it is more appropriate to accommodate an inmate in another manner (for example, by providing volunteer readers).

Watches must have a selling price of no more than \$100, no stones, and be electronically unsophisticated (i.e., unable to send or receive signals).

Language translators are permitted to inmates who have displayed a need.

(g) Education Program Materials. Education program materials or current correspondence courses may be retained even if not stored as provided in

paragraph (b) of this section.

Only education, religious study materials, and correspondence materials pertaining to current course work may be retained.

Once an educational course is completed, associated books and materials must be removed from the living area or be included as part of an inmate's correspondence and reading materials.

(h) *Personal Photos.* An inmate may possess photographs, subject to the limitations of paragraph (b) of this section, so long as they are not detrimental to personal safety or security, or to the good order of the institution.

Ordinarily, photographs, particularly those of family and friends, are approved, since they represent meaningful ties to the community.

A personal photograph is defined as a photograph intended for individual viewing, as opposed to a photograph published for commercial use. Personal photographs may be stored or displayed in the housing units according to local sanitation and housekeeping guidelines.

Inmates may not retain Polaroid photos.

Nude or sexually suggestive photos (individual prints or copies as opposed to those from publications) present special concerns about personal safety, security, and good order, particularly when the subject is an inmate's relative, friend, or acquaintance or could reasonably be perceived as such. For these reasons, an inmate may not be permitted to retain, receive, or possess a personal photograph in which the subject is partially nude or nude, or when the photograph depicts sexual acts such as intercourse, fellatio, or sodomy. These materials will be returned to the sender upon receipt at the institution.

An inmate may possess 25 loose photos. In addition to these photos, an inmate may possess a photo album containing photos, provided they are properly stored in the photo album.

i. **Religious Items.** Each inmate, upon commitment, will be permitted to retain religious items approved by the Warden.

Ordinarily, inmates will be permitted to retain one religious medallion and chain with no stones, non-metallic. The item will not be valued more than \$100.

The Warden will authorize retention of religious items unless they pose a threat to the security and orderly running of the institution.

Inmates may not receive these items from home.

Items of religious wearing apparel include, but are not limited to:

- Prayer shawls and robes.
- Kurda or ribbon shirts.
- Medals and pendants (as noted above).
- Medicine pouches.
- Various types of approved headwear.

Personal religious property may be purchased only from commissary stock or from a Chaplain-approved catalogue using the Special Purchase Order process.

The inmate must have prior approval from the Chaplain. The Religious Beliefs and Practices Institution Supplement must include proper acquisition procedures for those items not available through a catalogue.

Religious headwear is permitted in all areas of the institution, subject to normal considerations of security and good order, including inspection by staff.

Guidance for approved religious headwear and attire is found in the Program Statement **Religious Beliefs and Practices**.

Religious headwear and/or attire which has been altered without staff approval is contraband.

j. **Consumable Awards.** Bureau entities such as Education, UNICOR, and Recreation Departments may provide consumables as awards to recognize inmate achievements. Consumables such as soda, cookies, hygiene items, small monetary awards, paper certificates, etc., are to replace property awards.

Property awards such as trophies, hats, tee shirts, mugs, pens, etc., are not authorized at any institution.

k. **Packages From Home.** The only packages an inmate may receive from home are those containing release clothing and authorized medical devices.

Release clothing packages may only be received within the last 30 days of confinement. This clothing will be stored in R&D and not released to the general population.

Medical devices such as hearing aids, eyeglasses, dentures, wheelchairs, braces, orthopedic/prescription shoes, and artificial limbs are authorized if medically required and approved by the Health Services Administrator.

3. PERSONAL PROPERTY LIST AND RECORDS

The Inmate Personal Property List (Attachment A), includes all personal property that an inmate can retain at every institution, including non-government property approved for use at all Bureau institutions and permitted for transfer between institutions.

This includes any medical device which is either issued or approved by the Health Services Unit (HSU) prior to it being added to the inmate's personal property list.

Should an inmate transfer to another institution, this property may be sent along with the inmate or his or her property at the discretion of the sending and receiving institutions' Wardens.

While the institution may set a limit on the number of specific items that the inmate may retain, this limit may not exceed the capacity of the local specified area or container designated for inmate clothing.

a. **Additional Property Items.** The Warden must approve any item of inmate property not found in Attachment A and then only for local and short-term retention.

Items that are added to an inmate's property list may vary by institution due to climatic, cultural, or other reasons. All such property will be clearly identified when sold at Commissary as "for local use only."

Property approved for local use will be mailed home at the inmate's expense upon transfer or release. If abandoned by the inmate, the property will be disposed of in accordance with the Program Statement **Property Management Manual**, Chapter 11, sec. 2.

Examples of items identified for possession at the Warden's discretion are listed in Attachment A.

b. **Personal Property Record.** A copy of the Inmate Personal Property Record (BP-A0383) will be given to the inmate during the initial property inventory or any subsequent inventory. This form and/or a commissary receipt constitutes proof of ownership, not proof of value.

c. **Inmate Property Inventory Records.** The BP-A0383 will be used to inventory all inmate property except when:

- The Authorization to Receive Package or Property (BP-A0331) will be used to inventory release clothing received from an outside source.
- The Warden elects to use a local form instead; for instance, when an inmate moves from Administrative Detention to Disciplinary Segregation or from Disciplinary Segregation to Administrative Detention.

Regardless of the form used, a written record of that inventory will be retained in the Special Housing Unit (SHU) for at least two years. A copy of the Inmate Personal Property Record form will also be kept in the Inmate Central File.

The Request-Authorization to Mail Inmate Package (BP-329), must be used to inventory property which is authorized for retention, but not authorized for shipment at Bureau expense (the inmate incurs the cost of mailing).

4. CONTRABAND

§ 553.12 Contraband.

(a) Contraband is defined in §500.1 (h) of this chapter. Items possessed by an inmate ordinarily are not considered to be contraband if the inmate was authorized to retain the item upon admission to the institution, the item was issued by authorized staff, purchased by the inmate from the commissary, or purchased or received through approved channels (to include approved for receipt by an authorized staff member or authorized by institution guidelines).

Contraband includes material prohibited by law, or by regulation, or material which can reasonably be expected to cause physical injury or adversely affect the security, safety, or good order of the institution.

For example, a manual describing the operation of the Bureau's data processing equipment would be considered contraband if possessed by an inmate because of the threat it would pose to the security, safety, and good order of the institution.

(b) For the purposes of this subpart, there are two types of contraband.

(1) Staff shall consider as hard contraband any item which poses a serious threat to the security of an institution and which ordinarily is not approved for possession by an inmate or for admission into the institution. Examples of hard contraband include weapons, intoxicants, and currency (where prohibited).

Other examples of hard contraband include:

- Tools which may be used to aid in an escape (e.g., rope).
- Ammunition or explosives.
- Combustible or flammable liquids.
- Knives or tools not provided in accordance with the Program Statement **Correctional Services Manual**.
- Hazardous or poisonous chemicals and gases.

Narcotics or other controlled substances not dispensed or approved by the institution HSU are also hard contraband.

Medicine the HSU dispensed or approved is hard contraband if not possessed by the inmate for whom it was prescribed or if not consumed or used in the manner prescribed.

Staff must consult the institution pharmacist or other health services staff member in any case involving questions whether a prescribed medication represents contraband.

Medicines the inmate carries into the institution at the time of commitment (e.g., voluntary commitment) will be forwarded to the institution medical staff for disposition. If appropriate, this medicine will be returned to the inmate.

(2) Staff shall consider as nuisance contraband any item other than hard contraband, which has never been authorized, or which may be, or which previously has been authorized for possession by an inmate, but whose possession is prohibited when it presents a threat to security or its condition or excessive quantities of it present a health, fire, or housekeeping hazard. Examples of nuisance contraband include: personal property no longer permitted for admission to the institution or permitted for sale in the commissary; altered personal property; excessive accumulation of commissary, newspapers, letters, or magazines which cannot be stored neatly and safely in the designated area; food items which are spoiled or retained beyond the point of safe consumption; government-issued items which have been altered, or other items made from government property without staff authorization.

The Warden may set limits locally, based on available storage space, on the amount of commissary items, newspapers, magazines, etc., each inmate may retain.

5. PROCEDURES FOR HANDLING CONTRABAND

§ 553.13 Procedures for handling contraband.

(a) Staff shall seize any item in the institution which has been identified as contraband whether the item is found in the physical possession of an inmate, in an inmate's living quarters, or in common areas of the institution.

(b) Staff shall dispose of items seized as contraband in accordance with the following procedures.

Exceptions to these procedures may occur only upon written authorization of the Warden or designee.

The procedures described in this section apply to and include property found in the inmate's physical possession, in an inmate's living quarters, or in common areas of the institution.

These procedures also encompass the property of inmates processed through Receiving and Discharge (R&D), such as new commitments and inmates received through transfer.

When religious items are confiscated the chaplain must be consulted as to the validity of the items.

(1) Staff shall return to the institution's issuing authority any item of government property seized as contraband, except where the item is needed as evidence for disciplinary action or criminal prosecution. In such cases, staff may retain the seized property as evidence.

Seized government property, if not altered, may be placed in normal stock for reissue.

Altered government property, including items an inmate made from government property without staff authorization, will be destroyed at the Warden's discretion.

The Warden may delegate the authority to determine if altered government property is to be destroyed.

The chaplain must be consulted regarding the disposition of religious items confiscated.

(2) Items of personal property confiscated by staff as contraband are to be inventoried and stored pending identification of the true owner (if in question) and possible disciplinary action. Following an inventory of the confiscated items, staff shall employ the following procedures.

(i) Staff shall provide the inmate with a copy of the inventory as soon as practicable. A copy of this inventory shall also be placed in the inmate's central file.

Placing a copy of the inventory in the Inmate Central File will assist staff in the investigation of possible tort claims.

(ii) The inmate shall have seven days following receipt of the inventory to provide staff with evidence of ownership of the listed items. A claim of ownership may not be accepted for an item made from the unauthorized use of government property. Items obtained from another inmate (for example, through purchase, or as a gift) without staff authorization may be considered nuisance contraband for which a claim of ownership is ordinarily not accepted.

(iii) If the inmate establishes ownership, but the item is identified as contraband, staff shall mail such items (other than hard contraband), at the inmate's expense, to a destination of the inmate's choice. The Warden or designee may authorize the institution to pay the cost of such mailings when the item had not been altered and originally had been permitted for admission to the institution or had been purchased from the commissary, or where the inmate has insufficient funds and no likelihood of new funds being received. Where the inmate has established ownership of a contraband item, but is unwilling, although financially able to pay postage as required, or refuses to provide a mailing address for return of the property, the property is to be disposed of through approved methods, including destruction of the property.

The Confiscation and Disposition of Contraband form (BP-A0402) will be completed.

Ordinarily, the Correctional Systems Manager (CSM) is responsible for authorizing the institution to pay mailing costs.

(iv) If the inmate is unable to establish ownership, staff shall make reasonable efforts to identify the owner of the property before any decision to destroy the property is made.

(v) Staff shall prepare and retain written documentation describing any items destroyed and the reasons for such action.

Destroying contraband will be accomplished as follows:

- Ordinarily, the CSM (for R&D only) or Captain or designee receives the inmate's proof of ownership and determines if an item is contraband.
- When it is determined that the item is to be destroyed, the CSM (for R&D only) or Captain or designee will prepare the written documentation describing the item(s) destroyed and the reasons for this action.
- Ordinarily, property is held for 120 days before it is destroyed. This delay allows an inmate the opportunity to obtain proof of ownership and/or appeal the decision through the Administrative Remedy Procedure.
- The employee who actually destroys the property, and at least one staff witness to the disposal, will state in writing that they have witnessed the destruction.
- Records of disposal of property will remain on file for at least two years to ensure the availability of information necessary to an investigation of a subsequent tort claim.

(vi) Where disciplinary action is appropriate, staff shall delay disposition of property until completion of such action (including appeals).

(c) Staff shall retain items of hard contraband for disciplinary action or prosecution or both. The contraband items may be delivered to law enforcement personnel for official use. When it is determined that the item is not needed for criminal prosecution, the hard contraband shall be destroyed as provided in paragraph (b)(2)(v) of this section. Written documentation of the destruction shall be maintained for at least two years.

(d) Staff may not allow an inmate to possess funds in excess of established institutional limits. Staff shall deliver to the cashier any cash or negotiable instruments found in an inmate's possession which exceed the institution's allowable limits. Funds determined to be contraband shall be confiscated for crediting to the U.S. Treasury.

All cash and negotiable instruments in the possession of inmates is unauthorized.

Cash and negotiable instruments that were inadvertently delivered to the inmate via the mail and are immediately turned over to staff shall be returned to the mail room to be processed in accordance with the Program Statement **Correspondence**.

All other cash and negotiable instruments found in the inmate's possession shall be processed as contraband. The cash and negotiable instruments shall be turned over to the cashier.

(1) Where disciplinary action against the inmate is appropriate, staff shall delay final disposition of the funds until such action (including appeals) is completed.

(2) Prior to a decision on the disposition of funds, staff shall allow the inmate a reasonable amount of time to prove ownership.

6. INMATE TRANSFER BETWEEN INSTITUTIONS AND INMATE RELEASE

§ 553.14 Inmate transfer between institutions and inmate release.

(a) Except as provided for in paragraphs(a)(1) through (3) of this section, authorized personal property shall be shipped by staff to the receiving institution.

(1) The Warden ordinarily shall allow an inmate transferring to another institution to transport personal items determined necessary or appropriate by staff and, if applicable, legal materials for active court cases.

(2) The Warden may require or allow an inmate who is transferring to another institution under furlough conditions to transport all the inmate's authorized personal property with him or her.

(3) An inmate who is being released or who is transferring to a Community Corrections Center may arrange to ship personal property at the inmate's expense. The inmate is responsible for transporting any personal property not so shipped.

(b) If the inmate's personal property is not authorized for retention by the receiving institution, staff at the receiving institution shall arrange for the inmate's excess personal property to be mailed to a non-Bureau destination of the inmate's choice. The inmate shall bear the expense for this mailing.

(c) Whenever the inmate refuses to provide a mailing address for return of the property or, when required, refuses to bear the expense of mailing the property, the property is to be disposed of through approved methods, including destruction of the property.

This property determination is to be made in the receiving institution's R&D unit when the inmate's property is processed (i.e., inventoried) in the inmate's presence. Bureau institutions will accept for each inmate the property approved in this Program Statement as authorized for retention and transfer between Bureau institutions. Staff will adhere to the procedures that follow with respect to an inmate's property while he or she is in transfer between institutions.

d. Sending institution staff will ship authorized property of inmates transferring via bus, van, or airlift directly to receiving institutions. Ordinarily, no more than two boxes of property, size 14" x 14" x 19", will be shipped at government expense for each inmate. The inmate may elect to pay for expenses related to the shipment of authorized personal property beyond the two boxes.

Institutional clothing and shoes for an inmate with special needs (large sizes, small sizes, orthopedic designs, orthopedic shoes, appliances, clothing, insulin testing kits, etc.), may be shipped at government expense in addition to the two-box maximum when the inmate transfers to another Bureau institution. All other Bureau-issued clothing will not be transferred.

Property of inmates transferring on furlough will also be handled in this same manner.

Legal property will be exempt from this two-box limit.

e. Bureau buses and vans will accept two standard size (14" x 14" x 19") boxes for transport with the inmate when the same bus or van delivers the inmate to the final destination. This shipment will be in lieu of the two boxes which would normally be mailed at government expense.

f. Essential Daily Prayer items, as authorized by the Warden, must be delivered to transporting officials upon the inmate's removal. The inmate is responsible for production of the items, in the

authorized container (authorization affixed by Chaplain), to the R&D Officer. The items will be re-issued to the inmate for daily use at all holdover points.

The Chaplaincy Services Branch, Central Office, will provide sample authorization forms and a sample container to each location for use in the issuance of essential daily prayer items.

g. R&D staff will use a Transfer Receipt (BP-A0821), for receipting all packages delivered to transporting officials in accordance with the above changes.

A separate entry will be made for the package containing essential Daily Prayer items.

h. An inmate who is to be assigned as a holdover while en route to a new institution will be limited in the amount of personal property that may accompany him or her. Such property is limited to the necessary personal items and legal materials for active court cases.

i. All property which accompanies the inmate must be listed on the Inmate Personal Property Record (BP-A0383).

Property inadvertently omitted from the form may not be given to the transporting officer or to any other staff for the purpose of having the item(s) taken to the new institution (either holdover or designated).

This property must be listed on a new Inmate Personal Property Record and shipped to the receiving institution.

j. Inmates being released or transferring to a Community Corrections Center will be encouraged to ship their property home at their expense prior to release. If they choose not to, they will take their personal property with them.

k. Property which is authorized for retention at Bureau institutions, but not authorized for shipment at Bureau expense, may be shipped by each inmate incurring the cost.

These packages will be inventoried using a Request-Authorization to Mail Inmate Package form (BP-329). Inmates will affix the correct postage.

7. VOLUNTARY SURRENDERS

When an inmate voluntarily surrenders to Bureau custody he or she will be permitted to retain only the following items:

- Plain wedding band (no stones or intricate markings).
- Earrings for females only (no stones) with a declared value of less than \$100.
- Medical or orthopedic devices.

- Legal documents.
- Social Security card and other forms of identification (driver's license, passport, etc.) to be retained in the Inmate Central File until the inmate's release.
- Religious items approved by the Warden as long as they do not present a threat to the security of the institution (religious medallions and chains must have a declared value of less than \$100, male or female).
- Prescription glasses.

The institution will only pay for the shipping costs of clothing the inmate wears upon initial commitment – pants, shirt, underwear, shoes, coat, etc.

All other property will be rejected and shipped to the inmate's home at the inmate's expense.

8. LIMITATIONS ON PERSONAL PROPERTY – MEDICAL TRANSFERS

§ 553.15 Limitations on personal property – medical transfers.

The Warden shall set a limit on the amount of personal property that may accompany an inmate transferring to a medical facility. For purpose of this rule, a medical facility is one which provides observation and/or treatment of a medical, surgical, or psychiatric nature, or any combination of these. Such medical transfers are ordinarily of a short-term duration (30--120 days).

Patients transferring to a medical facility for medical, surgical, or psychiatric treatment are ordinarily limited to the amount of personal property which can be placed in a box approximately 14" x 14" x 19."

The amount of clothing and other personal effects (for example, watches, rings, orthopedic devices, personal letters, religious articles) are limited to the items which can be appropriately placed within this container.

(a) The Wardens of the sending and receiving institutions shall allow the inmate to retain those legal materials specifically needed in respect to on-going litigation. Questions as to the need for such material may be referred to Regional Counsel.

If an inmate claims the need to take what can be considered an excessive amount of legal materials on a transfer, staff at the sending institution, ordinarily the CSM, will contact Regional Counsel to determine if the inmate has any pending court litigation or a hearing set to occur during the inmate's expected absence from the institution that would justify taking these legal materials.

(b) The Warden of the sending institution shall designate a secure location for storage of all inmate personal property not accompanying the inmate.

Minimum guidelines for storage will include accurate record keeping indicating:

- The number of boxes.
- The inmate's name.
- Registration number.
- The institution to which the inmate is being transferred for treatment.

(c) Personal property permitted in the sending institution, but not in the receiving institution, shall either be retained at the sending institution or be mailed to a destination of the inmate's choice.

(1) If the inmate is expected to return to the sending institution within 120 days of transfer, staff shall advise the inmate that property not allowed in the medical facility may be held at the sending institution or sent to a destination of the inmate's choice (other than the medical facility), at the inmate's expense. Where lack of space prevents retention of the inmate's property at the sending institution, that institution shall pay postage costs connected with mailing the inmate's property to a destination of the inmate's choice. Where lack of space prevents the retention of the inmate's property at the sending institution, and the inmate refuses to provide a mailing address for return of the property, the property is to be disposed of through approved methods, including destruction of the property.

(2) The inmate's property may be sent with the inmate to the medical facility when the inmate is not expected to return to the sending institution, will be at the medical facility over 120 days, or for any other justified reason. The Warden at the sending institution shall prepare and place in the inmate's central file written documentation for forwarding the inmate's personal property.

(d) The Warden of the medical facility shall return an inmate's personal property ordinarily in the same or equivalent size container as originally used by the sending institution. Property accumulated over that amount, at the option of the inmate, will either be sent to a destination selected by the inmate, at the inmate's expense, donated, or destroyed. If the inmate is financially able but refuses to pay for the mailing, or if the inmate refuses to provide a mailing address for forwarding of the property, the property is to be disposed of through approved methods, including destruction of the property.

On occasion, staff may allow an inmate to retain more property than he or she brought to the institution. Situations when this might be permitted include when the inmate has been at the institution over three months or when a transfer is unexpectedly effected immediately after the inmate has made significant commissary purchases.

If the inmate is re-designated after completing medical treatment to an institution other than the sending institution, the medical facility is to notify the sending institution of this fact via GroupWise.

The medical institution will send this message when treatment has been completed and the inmate is ready for transfer.

Upon receiving the GroupWise message, the institution retaining the inmate's property will arrange for the property to be forwarded to the institution to which the inmate was transferred.

Ordinarily, once every 30 days, staff will inspect the stored property to guard against tampering or pilferage.

9. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) DETAINEES

ICE has placed limitations on the amount of personal property for detainees who will be deported. Consequently, detainees who transfer to other facilities should have their property limited to the following items:

- Wedding Band (plain, no stones).
- Prescribed Medication.
- Legal Materials (ongoing case).
- Photographs (10, no Polaroids).
- Shoes (1 pair).
- Funds (transfer to non-BOP Facilities only).
- Religious Medal and/or Medallion.
- Watch (value less than \$100.00).
- Prescription Eyeglasses.
- Personal Letters (5).
- Soft-back Bible.

Any items not authorized for transport by ICE must be mailed at the inmate's expense. If abandoned by the inmate, the property will be disposed of in accordance with Program Statement **Property Management Manual**, Chapter 11, sec. 2.

10. INSTITUTION SUPPLEMENT

All institutions will develop an Institution Supplement describing that institution's procedures regarding inmate personal property.

A copy of the Institution Supplement will be forwarded for approval to the appropriate Regional Director prior to initial issuance or any change.

Each Institution Supplement must cover at least the following areas:

- Identification of personal property which the inmate may retain. Inmates will be advised as part of the admission and orientation program what personal property they may keep.
- Identification of areas within the institution for property storage. Such storage areas are to be secured, with limited staff access and no access by inmates.

Property storage may not be in offices of the unit team or the correctional supervisor except in temporary emergency situations.

When an inmate leaves on writ or furlough or is placed in SHU status, staff will place the inmate's property in a secured storage area without frequent access by staff or inmates.

- Establishment of a procedure to ensure a property inventory whenever an inmate's status requires such action (for example, admission, placement in special housing, transfer, release). At a minimum, this will include completion of the Inmate Personal Property Record (BP-A0383) for identifying property and documenting valuables, particularly property valued over \$100.

Specificity is necessary when completing inventory forms. For example, instead of identifying a package of books as "1 lot books" the items should be identified as "three hardback legal books and two paperback books."

An exception is allowed for new inmates received in the R&D area and placed in a SHU. Then, R&D staff must inventory the property and forward the property to the SHU officer, who will inspect the property for contraband and not re-inventory it.

- Establishment of a procedure to retain the Inmate Personal Property Record for two years in the R&D unit, and, when applicable, in the SHU.

It is suggested that Inmate Personal Property Record forms be kept chronologically, thereby allowing easy identification of those forms over two years old.

- Establishment of a procedure to ensure documentation in the Inmate Central File of all major items received through the mail.

REFERENCES

Program Statements

P1315.07 Legal Activities, Inmate (11/5/99)
 P1330.16 Administrative Remedy Program (12/31/07)
 P2000.02 Accounting Management Manual (5/22/87)
 P4400.05 Property Management Manual (5/26/04)
 P4500.07 Trust Fund/Deposit Fund Manual (4/19/10)
 P5580.08 8/22/2011 [Federal Regulations from 28 CFR: this type](#). Implementing instructions: this type. 18

P5266.10	Incoming Publications (1/10/03)
P5270.08	Inmate Discipline and Special Housing Units (12/4/09)
P5360.09	Religious Beliefs and Practices (12/31/04)
P5370.11	Recreation Programs, Inmate (6/28/08)
P5500.11	Correctional Services Manual (10/10/03)
P5540.06	Prisoner Transportation Manual (4/20/00)

Federal Regulations

Federal Regulations cited in this Program Statement are contained in 28 CFR 553.10-15.

ACA Standards

- 4th Edition Standards for Adult Correctional Institutions: 4-4164, 4-4285, 4-4292, 4-4293, 4-4294, and 4-4446.
- 4th Edition Standards for Adult Local Detention Facilities: 4-ALDF-2A-24, 4-ALDF-2A-23, 4-ALDF-5B-18.

BOP Forms

BP-329	Request-Authorization to Mail Inmate Package
BP-A0331	Authorization to Receive Package or Property
BP-A0383	Inmate Personal Property Record
BP-A0402	Confiscation and Disposition of Contraband
BP-A0821	Transfer Receipt

Records Retention

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on Sallyport.

Attachment A

Inmate Personal Property List – National Limit Authorized For Transfer Between Institutions

B = Black
W = White
BW = Black/White Combination
GRY = Gray
GRN = Green (pastel)
C = Commissary Only
I = BOP Issue

Items Apply to All Inmates Unless Otherwise Noted

CLOTHING

Bathrobe

Males - W GRY (no hoods) c (1)

Females - W GRN (no hoods) c (1)

Cap, Baseball

Males - W GRY (no logos) c (1)

Females - W GRN (no logos) c (1)

Handkerchief, W c (5)

Shoes, Athletic/Specialty, B W BW (\$100 value maximum/no pumps/no pockets) court, turf, running shoe, c (2 pr)

Shoes, Casual, c (1 pr)

Shoes, Shower, c (1 pr)

Shoes, Slippers, c (1 pr)

Shoes, Work, c, (1 pr), (I)

Shorts, Gym

Males – W GRY c (2)

Females – W GRN GRY c (2)

Socks, Tube, W c (5)

Stockings/Pantyhose, **Females – skintone, c (5)**

Sweatshirt

Males – GRY (cotton/pullover/no hoods/no logos) c (2)

Females – W GRN GRY (cotton/pullover/no hoods/no logos) c (2)

Sweatpants

Males – GRY (cotton/no logos) c (2)

Females – W GRN GRY (cotton/no logos) c (2)

T-Shirts/Sleeveless Undershirts

Males – W GRY (no pockets/no logos) c (5)

Females – W GRY (no pockets/no logos) c (5)

Underwear

Males – W GRY (boxers or briefs) c (7)

Females – W (bras/panties) c (7)

PERSONALLY OWNED ITEMS

Address Book, c (1)

Alarm Clock (non-electric), c (1)

Bag, Athletic Tote (no logo), c (1)

Barrettes/Clips/Bows, **Females – c (5)**

Batteries (not including batteries stored in electronic items), c (4)

Blush Kit, **Females - c (1)**

Books (hard/soft), (5)

Book/Reading Light, c (1)

Bowl (plastic/24 oz. or less), c (1)

Calculator, small (electronically unsophisticated, inexpensive, non-print feature/battery or solar operated) c (1)

Calendar, small, c (1)

Comb/Pick (plastic), c (2)

Combination Lock, c (1)

Cosmetic Bag, **Females – c (1)**

Cup (plastic), c (1)

Dentures (1 set)

Earplugs, c (1 set)

Earrings, **Females – 1 pr**

Envelopes, c (1 box)

Eyeglasses (no stones), (2 pr)

Eyeglass Case (2)

Eyeliner/Pencil, **Females – c (2)**

Eye Shadow, **Females – c (2)**

Hairbrush, c (1)

Hangers (plastic), c (5)

Headphones, c (1)

Jug (plastic/up to 1 gal), c (1)

Language Translator, (small, electronically unsophisticated, inexpensive, non-print feature/battery, or solar operated), c (1)

Laundry Bag (mesh), c (1)

Letters (25)

Lipstick, **Females – c (3)**

Makeup/Foundation/Base, **Females – c (2)**

Mirror (small/plastic), c (1)

Pen, Ballpoint, c (2)
Pencils, c (2)
Photo Album/Scrapbook with photos, c (1)
Photos (single-faced) (25)
Playing Cards, c (2 decks)
Radio with Earplugs (walkman-type), c (1)
Shaving Bag, Males – c (1)
Stamps (total value equivalent to 40, 1st Class), c
Sunglasses (non-reflective), c (1)
Towel (white/large), c (1)
Watch (\$100 maximum value, no stones, electronically unsophisticated; i.e., inability to send signals), c (1)
Watchband, c (1)
Wedding Band (plain - no stones/white/yellow metal) (1)
Writing Tablet, c (2)

HYGIENE ITEMS

Brushless Shave
Conditioner/Hair
Dental Floss and/or Pick (unwaxed), c (1 container)
Denture Adhesive, c (1)
Denture Brush, c (1)
Denture Cleaner/Powder, c (1)
Denture Cup, c (1)
Deodorant, c (2)
Face Cream, **Females**
Hair Oil/Gel (non-flammable, non-alcoholic), c (1)
Laundry Detergent
Lens Cloth, c (1)
Lotion, Skin (moisturizing), c (1)
Mouthwash
Nail Clippers (no file), c (2)
Powder/Body/Foot
Razor, c (1)
Scissors, Mustache, Males – (blunt tip), c (1)
Sewing Kit, c (1)
Shampoo
Shaving Cream/Lotion, Males
Soap, Bar, c (3)
Soap Dish, c (1)
Toothbrush, c (1)
Toothbrush Holder, c (1)

Toothpaste, c (2 tubes)
Tweezers (blunt tip), c (1)

RECREATIONAL ITEMS

Athletic Supporter, Males – c (2)
Bra, Jogging, **Females – c (2)**
Eye Protection, c (1)
Gloves (fingerless/athletic), c (1)
Gloves (handball), c (2)
Harmonica, c (1)
Headbands/Sweatbands, W c (2)
Knee Wraps, c (2)
Knitting/Crochet Needles, c (1)
Mouth Piece, c (1)
Racquetballs (2 cans of 2), c (4)
Softball Glove, c (1)
Tennis Balls (can of 3), c (1)
Tools for Bead Work, c (1)
Weightlifting Belt, c (1)
Weightlifting Gloves, c (1)
Weightlifting Wraps, c (2)
Yarn, Embroidery, Hoops/Needles, c (1 set)

APPROVED RELIGIOUS ITEMS

Items authorized in “Manual on Inmate Beliefs and Practices” and “Transferrable Religious Property,” posted on Chaplaincy Services Branch Sallyport page.

APPROVED MEDICAL DEVICES

Non-perishable commissary items sealed in unopened, original containers may also be transported or shipped.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

JANET JENKINS, et al.,

Plaintiffs,

v.

No. 2:12-cv-184-WKS

KENNETH L. MILLER, et al.,

Defendants.

**DECLARATION OF DIEGO A. SOTO
IN SUPPORT OF PLAINTIFFS' MOTION FOR LEAVE TO SERVE DISCOVERY
DOCUMENTS ON DEFENDANT PHILIP ZODHIATES THROUGH SERVICE ON
DEFENDANTS VICTORIA HYDEN AND RESPONSE UNLIMITED, INC. UNTIL
DEFENDANT PHILIP ZODHIATES OBTAINS NEW COUNSEL**

I, Diego A. Soto, declare under penalty of perjury that the following is true and correct:

1. I am a Staff Attorney at the Southern Poverty Law Center and represent Plaintiffs Janet Jenkins and Isabella Miller-Jenkins in this case.

2. Exhibit 1 are true and correct copies of the entity information for Defendant Response Unlimited, Inc. ("RUL") from the Virginia Secretary of State's website and RUL's 2019 Annual Report, which I downloaded on January 9, 2020.

3. Exhibit 2 is a true and correct copy of Defendant Philip Zodhiates's Bureau of Prisons information from the Federal Bureau of Prisons's ("BOP") website, which I downloaded on January 9, 2020.

4. Exhibit 3 is a true and correct copy of the Federal Bureau of Prisons's program statement number 5265.14 titled "Correspondence," which I downloaded from BOP's website on January 8, 2020.

5. Exhibit 4 is a true and correct copy of BOP's program statement number 5580.08 titled "Inmate Personal Property," which I downloaded from BOP's website on January 8, 2020.

6. As of the filing of this motion, Plaintiff is not aware that Zodhiates has obtained new counsel, and no new counsel has filed a notice of appearance.

7. Discovery productions, which have included native files, such as audio, video, photo, and email, have been served on Zodhiates by emailing Zodhiates's attorneys a link to an online storage folder from which his attorneys could download the produced files.

8. According to Plaintiffs' document management system, Plaintiffs have produced 1,399 documents with a Bates number range reaching 15,886. Plaintiffs are preparing to produce more documents, including confidential documents protected by the Court's protective order, such as Jenkins's financial records.

9. Until Zodhiates acquires new counsel, Plaintiffs will serve all other documents, including nonconfidential discovery responses, on Zodhiates in accordance with the applicable rules.

10. On January 7, 2020, counsel for Plaintiffs asked Gravel & Shea PC whether it was able to represent whether Mr. Zodhiates consents to being served discovery productions through service on Hyden or RUL. Gravel & Shea PC was unable to make that representation.

Executed on January 9, 2020

/s/ Diego A. Soto

Diego A. Soto

Counsel for Plaintiffs