


STATE OF WISCONSIN)
) SS
DEPARTMENT OF CORRECTIONS)

I, Michael J. Sullivan, Secretary, Department of Corrections, and custodian of the official records, certify that the annexed rules, relating to inmate mail, property, and phones, were duly approved and adopted by the Department on July 21, 1998.

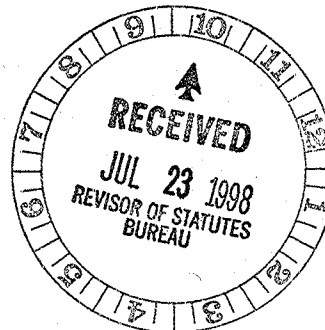
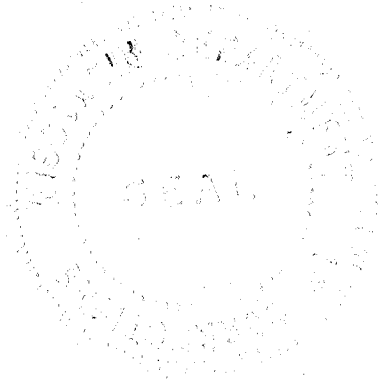
I further certify that this copy has been compared by me with the original on file in this Department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Corrections
149 E. Wilson Street in the City of
Madison, this 21st day of July, 1998.

SEAL



Michael J. Sullivan
Secretary



10-1-98

ORDER OF THE
DEPARTMENT OF CORRECTIONS
REPEALING, RENUMBERING, RENUMBERING AND AMENDING, AMENDING,
REPEALING AND RECREATING, AND CREATING RULES

The Wisconsin department of corrections proposes an order to repeal DOC 309.03 (20 (b)), 309.05 (3), 309.05 (4) (g) to (k), 309.05 (4) (m) to (n), 309.05 (5), 309.05 (6) (c) 8., 309.05 (12), 309.06 (4), and 309.12 (9); to renumber DOC 309.02 (2m), 309.02 (3), 309.02 (5), 309.02 (6), 309.02 (7), 309.02 (8), 309.02 (8m), 309.02 (9), 309.02 (11), 309.02 (12), 309.05 (2) (a), 309.05 (2) (b), 309.05 (6) (a), 309.05 (6) (c) 8., 309.05 (6) (c) 9., 309.05 (6) (e), 309.05 (6) (e) 1., 309.05 (6) (g), 309.05 (6) (h), 309.05 (7), 309.05 (9), 309.05 (11), 309.56, and 309.58; to renumber and amend DOC 309.02 (2), 309.02 (4), 309.02 (9m), 309.02 (10), 309.02 (13), 309.03 (2) (c), 309.03 (2) (d), 309.05 (1), 309.05 (2) (c), 309.05 (4) (intro.), 309.05 (4) (a) to (g), 309.05 (4) (L), 309.05 (6) (intro.), 309.05 (6) (b), 309.05 (6) (c) (intro.), 309.05 (6) (c) 1., 309.05 (6) (c) 2., 309.05 (6) (c) 3., 309.05 (6) (c) 4., 309.05 (6) (c) 5., 309.05 (6) (c) 6., 309.05 (6) (c) 7., 309.05 (6) (d), 309.05 (6) (e) 2., 309.05 (6) (f), 309.05 (8), 309.05 (10) (intro.), 309.05 (10) (a), 309.05 (10) (b), 309.06 (1), 309.06 (2), 309.06 (3), 309.18, 309.35, 309.57, 309.59, and 309.60; to amend DOC 309.01, 309.03 (2) (intro.), 309.03 (2) (a) (intro.), 309.03 (2) (a) 1., 309.03 (2) (a) 2., 309.03 (2) (b), and to create 309.02 (9), DOC 309.02 (10), 309.02 (13), 309.02 (14), 309.02 (15), 309.02 (22), 309.02 (23), 309.03 (2) (a) 3., 309.03 (2) (a) 4., 309.03 (2) (e), 309.04 (3) (h) to (j), 309.04 (4) (c) 8., 309.04 (4) (c) 10., 309.04 (4) (c) 11., 309.04 (4) (c) 12., relating to inmate mail, property, telephone calls and general provisions of chapter 309.

Statutory authority: ss. 301.02, 301.03 (1) and (2), and 227.11 (2), Stats.

Statutes interpreted: ss. 46.07, 301.32 (1), and 302.08, Stats.

Analysis by the Department of Corrections

Some provisions of the department of corrections administrative rules relating to inmate mail, property, and telephone calls have not been updated since the rule was created. With over 14 years of experience working with the rule, the department proposes to update the rule. This rule is authorized by ss. 301.02, 301.03 (1) and (2) and 227.11 (2), Stats. This rule interprets ss. 46.07, 301.32 (1) and 302.08, Stats.

This rule:

1. Makes technical changes such as changing the cross-references to other administrative rule sections which have been

changed. This rule changes sections from passive to active voice and changes pronouns to nouns. This rule changes the term "superintendent" to "warden". This rule also changes punctuation to conform to the Administrative Rules Procedure Manual.

2. Amends and creates new definitions. It amends the definition of close family member, general account, release account, and administrator. It creates definitions for mail, nudity, pornography, secretary, warden, sexual behavior, and sexual excitement.

3. Adds the provision that this rule does not apply to inmates placed by the department in county penal facilities or other state or federal penal facilities. The rules of those other facilities will apply to those inmates.

4. Changes the provision that news media representatives shall be permitted to interview individual inmates under certain circumstances to a provision which provides that the department may permit news media representatives to interview individual inmates under certain circumstances.

5. Adds new factors that the department may use in determining whether to allow a representative of the news media to interview an inmate: 1) the welfare of the victim, the victim's family or the community, and 2) legitimate correctional objectives, including resources. Repeals the provision that the warden may not permit a news media representative to interview an inmate if the clinical services unit supervisor believes that the inmate is mentally ill.

6. Deletes a provision which allowed the administrator to approve an interview of an inmate confined in segregation in extraordinary circumstances.

7. Requires the department to permit inmates to correspond with anyone, unless specifically disapproved by the warden.

8. Permits inmate mail sent to certain parties to be opened for inspection if the security director has reason to believe that the mail contains contraband and provides that mail received by an inmate from any of these parties may be opened by institution staff in the presence of the inmate. This rule adds a provision that staff may inspect the document but only to the extent necessary to determine if the mail contains contraband, or if the purpose is misrepresented. This rule also adds the provision that certain mail may be read if there is reason to believe that it is other than a legal document.

9. Permits correctional staff to read incoming and outgoing

mail from certain parties to ensure the security of the institution, institution staff, inmates, and general public.

10. Changes a provision that provides that incoming and outgoing mail shall not be delivered if it threatens physical harm to a provision that incoming and outgoing mail shall not be delivered if it threatens harm to any person.

11. Requires mail from certain parties to be clearly identifiable as being from one of the parties.

12. Creates a provision that incoming or outgoing mail may not be delivered if the security director has reasonable grounds to believe that the mail teaches or advocates illegal activity or disruption or behavior consistent with a gang or a violent ritualistic group.

13. Creates a provision that incoming or outgoing mail may not be delivered if it is determined to be injurious and defines injurious as materials which are pornographic. Pornographic materials include nudity which is not part of any published or printed material, such as a personal nude photograph. Pornography in the institution contributes to a hostile work environment for the increasing numbers of female correctional officers. Also, many inmates are sex offenders whose treatment may be compromised by exposure to pornography. Once pornography is allowed in an institution, institution staff cannot control its distribution. There have been instances where inmates admit that they are addicted to pornography and have used pornography to commit crimes such as making obscene telephone calls and writing obscene letters to members of the public.

14. Creates a provision that incoming or outgoing mail may not be delivered if it is determined to interfere with individual penological interests, goals or needs.

15. Creates a provision that incoming mail may not be delivered if the warden determines it to be inappropriate for distribution throughout the institution.

16. Adds a provision that inmates may not receive publications which teach or advocate hatred and present a danger to institutional security and order.

17. Exempts inmate to inmate mail from the requirement that a record be kept of any mail that is read.

18. Permits, instead of requires, a conduct report to be written and disposed of according to disciplinary rules if an

inmate is alleged to have violated rules or institution policies and procedures related to mail.

19. Provides that all inmate personal property shall be stored as specified by each institution.

20. Provides that personal property and funds of an inmate who has escaped shall be held for 30 days, instead of one year under the current rule. Unclaimed property shall be considered abandoned and disposed of in accordance with the policies and procedures of the institution.

21. Changes the definition of news media representative from anyone 18 years old or older who is a member of the press to someone whose principle employment is to gather or report news.

SECTION 1. DOC 309.01 is amended to read:

DOC 309.01 APPLICABILITY. This chapter applies to the department of corrections, and to all ~~adult~~ inmates in the legal custody of the department, except for inmates placed by the department in county penal facilities used by the department or other state or federal penal facilities. ~~It~~ The department is promulgated promulgates this rule pursuant to authority conferred by ss. 227.11 (2), 301.02, and 301.03, Stats., and interprets ss. 46.07, 301.19 (1), 301.32, 302.07, 302.08, 302.12, 303.01, and 303.065, Stats.

SECTION 2. DOC 309.02 (2) is renumbered DOC 309.02 (4) and amended to read:

DOC 309.02 (4) "Close family member" under ss. DOC ~~309.45~~ 309.27 to 309.52 309.37 means the inmate's natural, adoptive, step, and foster parents; spouse, children, grandparents, grandchildren, or siblings. A parent surrogate is within the definition of parent if ~~investigation~~ an inmate substantiates that a claimed surrogate did in fact act as a parent to the inmate, although the parent surrogate was not an adoptive, foster, or stepparent.

SECTION 3. DOC 309.02 (2m) is renumbered DOC 309.02 (5).

SECTION 4. DOC 309.02 (3) is renumbered DOC 309.02 (6).

SECTION 5. DOC 309.02 (4) is renumbered DOC 309.02 (2) and amended to read:

DOC 309.02 (2) "~~Administrator of the division of adult institutions~~ or "~~division administrator~~" means the administrator of the division of adult institutions, ~~of the~~ department of corrections, or designee.

SECTION 6. DOC 309.02 (5) is renumbered DOC 309.02 (7).

SECTION 7. DOC 309.02 (6) is renumbered DOC 309.02 (3).

SECTION 8. DOC 309.02 (7) is renumbered DOC 309.02 (8) and amended to read:

DOC 309.02 (8) "General or trust account" means an account established ~~to receive an inmate's pay, pensions, disability payments, of gifts from family; and from which disbursements may be made while an inmate is in the legal custody of the department by an institution to receive all funds for the benefit of an inmate.~~

SECTION 9. DOC 309.02 (8) is renumbered DOC 309.02 (10).

SECTION 10. DOC 309.02 (8m) is renumbered DOC 309.02 (13).

SECTION 11. DOC 309.02 (9) is renumbered DOC 309.02 (15).

SECTION 12. DOC 309.02 (9) is created to read:

DOC 309.02 (9) "Human sexual behavior" means the actual or simulated act of any of the following:

(a) Sexual intercourse, which means any penetration, however slight, by the penis into the mouth, vagina, or anus of another person, or any penetration by any part of the body or an object into the anus or vagina of another person.

(b) Fellatio or cunnilingus.

(c) Sodomy.

(d) Bestiality.

(e) Masturbation.

(f) Necrophilia.

(g) Sexual sadism or sexual masochistic abuse including, but not limited to, flagellation, torture, or bondage.

(h) Sexual excitement.

SECTION 13. DOC 309.02 (9m) is renumbered DOC 309.02 (18) and amended to read:

DOC 309.02 (18) "Release account" means an account established for an inmate in which a percentage of the inmate's income is deposited, in accordance with s. DOC ~~309.466~~ 309.30 so that the inmate has sufficient funds when released from the institution to purchase release clothing, out-of-state transportation, and other items and services needed on release.

SECTION 14. DOC 309.02 (10) is renumbered DOC 309.02 (19), and is amended to read:

DOC 309.02 (19) "Representatives of the news media" means ~~any person 18 years old or older who is a member of the press, including broadcast or journalism, who visits an institution for the purpose of investigation and reporting~~ persons whose principle employment is to gather or report news for any of the following-:

(a) A newspaper that qualifies as a general circulation newspaper of record in the community in which it is published.

(b) A news magazine that publishes news of a general character and of general interest which has a statewide or national circulation and is distributed at newsstands or by mail subscription to the general public.

(c) A statewide, national, or international news service.

(d) A radio or television news program of general character and general interest, at a station holding a federal communications commission license.

SECTION 15. DOC 309.02 (11) is renumbered DOC 309.02 (21).

SECTION 16. DOC 309.02 (12) is renumbered DOC 309.02 (22).

SECTION 17. DOC 309.02 (12) is created to read:

DOC 309.02 (12) "Mail" means materials such as letters and other items of correspondence processed through the United States postal service and letters and other items of correspondence processed within an institution.

SECTION 18. DOC 309.02 (13) is renumbered DOC 309.02 (24) and amended to read:

DOC 309.02 (24) "~~Superintendent~~ Warden" means the ~~superintendent~~ warden at an institution, or designee.

SECTION 19. DOC 309.02 (14) is created to read:

DOC 309.02 (14) "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion below the top of the areola or nipple, or the depiction of covered male genitals in a discernibly turgid state.

SECTION 20. DOC 309.02 (16) is created to read:

DOC 309.02 (16) "Pornography" means any material, whether written, visual, video, or audio representation or reproduction, that depicts any of the following:

- (a) Human sexual behavior.
- (b) Sadomasochistic abuse, including but not limited to flagellation, bondage, brutality to or mutilation or physical torture of a human being.
- (c) Unnatural preoccupation with human excretion.
- (d) Nudity which appeals to the prurient interest in sex.
- (e) Nudity which is not part of any published or printed material, such as a personal nude photograph.
- (f) Nudity of any person who has not attained the age of 18.

SECTION 21. DOC 309.02 (20) is created to read:

DOC 309.02 (20) "Secretary" means the secretary of the department of corrections, or designee.

SECTION 22. DOC 309.02 (23) is created to read:

DOC 309.02 (23) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

SECTION 23. DOC 309.03 (2) (intro.) is amended to read:

DOC 309.03 (2) (intro.) ~~News media representatives~~ The warden shall may be permitted permit news media representatives to interview individual inmates, unless one of the following exists:

SECTION 24. DOC 309.03 (2) (a) (intro.) is amended to read:

DOC 309.03 (2) (a) (intro.) ~~The superintendent~~ warden believes that an interview will jeopardize or be detrimental to any of the following:

SECTION 25. DOC 309.03 (2) (a) 1. is amended to read:

DOC 309.03 (2) (a) 1. ~~Jeopardize the~~ The safety or order of the institution; ~~or.~~

SECTION 26. DOC 309.03 (2) (a) 2. is amended to read:

DOC 309.03 (2) (a) 2. ~~Be detrimental to the~~ The welfare of the inmate; ~~.~~

SECTION 27. DOC 309.03 (2) (a) 3. is created to read:

DOC 309.03 (2) (a) 3. The welfare of the victim, the victim's family or the community.

SECTION 28. DOC 309.03 (2) (a) 4. is created to read:

DOC 309.03 (2) (a) 4. Legitimate correctional objectives, including resources.

SECTION 29. DOC 309.03 (2) (b) is repealed.

SECTION 30. DOC 309.03 (2) (c) is renumbered DOC 309.03 (2) (b) and is amended to read:

DOC 309.03 (2) (b) ~~The inmate is confined in segregation. The administrator of the division of adult institutions may approve in writing an interview of an inmate confined in segregation in extraordinary circumstances; or~~

SECTION 31. DOC 309.03 (2) (d) is renumbered DOC 309.03 (2) (c) and is amended to read:

DOC 309.03 (2) (c) ~~The inmate refuses to be interviewed.—A superintendent may require the refusal to be in writing.~~

SECTION 32. DOC 309.03 (5) is amended to read:

DOC 309.03 (5) ~~All The warden shall regulate all visits and interviews conducted pursuant to this section shall be subject to regulation by the superintendent as to time, location, length, and equipment used. Such regulation is not to discourage visits and interview.~~

SECTION 33. DOC 309.04 (3) (h) to (j) are created to read:

DOC 309.04 (3) (h) An investigative agency of the federal government.

(i) The clerk or judge of any state or federal court.

(j) The President of the United States.

SECTION 34. DOC 309.04 (4) (c) 8. is created to read:

DOC 309.04 (4) (c) 8. Is "injurious", meaning material that:

a. Is, in whole or in part, pornography.

b. Poses a threat to the security, orderly operation, discipline or safety of the institution.

c. Is inconsistent with or poses a threat to the safety, treatment or rehabilitative goals of an inmate.

d. Facilitates criminal activity.

SECTION 35. DOC 309.05 (1) is renumbered DOC 309.04 (1) and amended to read:

DOC 309.04 (1) ~~The department of corrections encourages communication between~~ may allow inmates to communicate with and their families, friends, government officials, courts, and other people concerned with the welfare of inmates consistent with the need to protect the public. ~~Such communication fosters reintegration into the community and the maintenance of family ties. It helps to motivate inmates contributes to high morals and to the security of inmates and staff.~~

SECTION 36. DOC 309.05 (2) (a) is renumbered DOC 309.04 (2) (a).

SECTION 37. DOC 309.05 (2) (b) is renumbered DOC 309.04 (2) (b).

SECTION 38. DOC 309.05 (2) (c) is renumbered DOC 309.04 (2) (c) and amended to read:

DOC 309.04 (2) (c) ~~An inmate~~ The department shall be permitted permit an inmate to correspond with anyone, ~~including inmates in other institutions.~~ There shall be no limit on the length or number of letters received or sent by any inmate.

SECTION 39. DOC 309.05 (2) (d) is renumbered DOC 309.04 (2) (d).

SECTION 40. DOC 309.05 (3) is repealed.

SECTION 41. DOC 309.05 (4) (intro.), (4) (a) to (f) and (4) (L) are renumbered DOC 309.04 (3) (intro.), and (3) (a) to (g), and are amended to read:

DOC 309.04 (3) Correspondence Institution staff may not open or read for inspection mail sent by an inmate to any of the parties listed below in pars. (a) to (j) may not be opened for inspection or read by institution staff, unless the security director has reason to believe that the mail contains contraband. Correspondence received by an inmate from any of these parties may be opened by institution Institution staff may open mail received by an inmate from any of these parties in the presence of the inmate. Institution staff may direct the inmate to remove the contents of the envelope, shake out the envelope and show the contents, page by page, to staff so that staff can inspect the contents to determine whether it contains contraband. Institution staff may not read correspondence received by an inmate from any of these parties except that if the correspondence contains an arrest record or any document of identification, staff may read the document but only to the extent necessary to determine who is the subject of the document. If correspondence contains contraband or if the inmate refuses to show the contents of the envelope to institution staff, institution staff may confiscate the correspondence. Staff may inspect the document but only to the extent necessary to determine if the mail contains contraband, or if the purpose is misrepresented. Staff may read the mail if staff has reason to believe it is other than a legal document. Confiscated correspondence The department shall be processed process contraband in accordance with sub. (6) (e) (intro.) and 1., (f) and (g). This subsection applies to mail clearly identifiable as being from one or more of the following parties:

(a) ~~An attorney, if the correspondence is readily identifiable as being from an attorney.~~

(b) ~~The governor of Wisconsin.~~

(c) ~~Members of the Wisconsin legislature.~~

(d) ~~Members of the United States congress.~~

(e) The secretary of the department, ~~except for correspondence in connection with the inmate complaint review system.~~

(f) The administrator of the division, ~~except for correspondence in connection with the inmate complaint review system.~~

(g) The attorney general of Wisconsin or an assistant attorney general of Wisconsin.

SECTION 42. DOC 309.05 (4) (g) to (4) (k), (4) (m), and (4) (n) are repealed.

SECTION 43. DOC 309.05 (5) is repealed.

SECTION 44. DOC 309.05 (6) (intro.) is renumbered DOC 309.04 (4) (intro.) and is amended to read:

DOC 309.04 (4) (intro.) Except as provided in ~~subs. sub. (3), (4) and (5)~~, the following restrictions department shall apply the following restrictions to all inmate correspondence:

SECTION 45. DOC 309.05 (6) (a) is renumbered DOC 309.04 (4) (a).

SECTION 46. DOC 309.05 (6) (b) is renumbered DOC 309.04 (4) (b) and amended to read:

DOC 309.04 (4) (b) ~~Incoming and outgoing mail, Correctional staff may read mail other than mail specified in (3) in order to ensure the safety of the institution, institution staff, inmates and the general public may be read only if the security director has reasonable grounds to believe that mail should not be delivered pursuant to par. (c) or if the correspondence is between inmates. If the correspondence is between inmates and concerns joint legal matters, it shall not be read further and staff shall be submitted submit the mail for transmittal without delay delivery.~~

SECTION 47. DOC 309.05 (6) (c) (intro.) is renumbered DOC 309.04 (4) (c) (intro.) and amended to read:

DOC 309.05 (4) (c) (intro.) ~~Incoming~~ The department may not deliver incoming and or outgoing mail shall not be delivered if it does any of the following:

SECTION 48. DOC 309.05 (6) (c) 1. is renumbered DOC 309.04 (4) (c) 1. and amended to read:

DOC 309.05 (4) (c) 1. Threatens criminal activity or ~~physical~~ harm to any person~~+~~.

SECTION 49. DOC 309.05 (6) (c) 2. is renumbered DOC 309.04 (4) (c) 2. and amended to read:

DOC 309.04 (4) (c) 2. Threatens blackmail or extortion~~+~~.

SECTION 50. DOC 309.05 (6) (c) 3. is renumbered DOC 309.04 (4) (c) 3. and amended to read:

DOC 309.04 (4) (c) 3. Concerns sending contraband in or out of an institution~~+~~.

SECTION 51. DOC 309.05 (6) (c) 4. is renumbered DOC 309.04 (4) (c) 4. and amended to read:

DOC 309.04 (4) (c) 4. Concerns plans to escape~~+~~.

SECTION 52. DOC 309.05 (6) (c) 5. is renumbered DOC 309.04 (4) (c) 5. and amended to read:

DOC 309.04 (4) (c) 5. Concerns activity that, if completed, would violate the laws of Wisconsin or the United States or the administrative rules of the department of ~~corrections~~+.

SECTION 53. DOC 309.05 (6) (c) 6. is renumbered DOC 309.04 (4) (c) 6. and amended to read:

DOC 309.04 (4) (c) 6. Is in code~~+~~.

SECTION 54. DOC 309.05 (6) (c) 7. is renumbered DOC 309.04 (4) (c) 7. and amended to read:

DOC 309.04 (4) (c) 7. Solicits gifts from a person other than a family member or a person on the visiting list~~+~~.

SECTION 55. DOC 309.05 (6) (c) 8. is repealed.

SECTION 56. DOC 309.05 (6) (c) 9. is renumbered DOC 309.04 (4) (c) 9.

SECTION 57. DOC 309.04 (4) (c) 10. is created to read:

DOC 309.04 (4) (c) 10. Teaches or advocates illegal activity, disruption, or behavior consistent with a gang or a violent ritualistic group.

SECTION 58. DOC 309.04 (4) (c) 11. is created to read:

DOC 309.04 (4) (c) 11. Is determined by the warden, on a case by case basis, to interfere with an inmate's penological interests, goals, or needs.

SECTION 59. DOC 309.04 (4) (c) 12. is created to read:

DOC 309.04 (4) (c) 12. Is determined by the warden, for reasons other than those listed in this paragraph, to be inappropriate for distribution throughout the institution.

SECTION 60. DOC 309.05 (6) (d) is renumbered DOC 309.04 (4) (d) and amended to read:

DOC 309.04 (4) (d) A The security director shall keep a record of any mail that is read, except inmate to inmate mail shall be kept by the security director. ~~It~~ The record shall include the name of the sender and receiver, the date, the reason for reading it, and the name of the reader. ~~Inmate~~ Inmates shall address questions regarding mail inspection ~~shall be addressed to the security director.~~

SECTION 61. DOC 309.05 (6) (e) is renumbered DOC 309.04 (4) (e).

SECTION 62. DOC 309.05 (6) (e) 1. is renumbered DOC 309.04 (4) (e) 1.

SECTION 63. DOC 309.05 (6) (e) 2. is renumbered DOC 309.04 (4) (e) 2. and amended to read:

DOC 309.04 (4) (e) 2. If the letter is outgoing mail ~~or if it is incoming and the sender is an inmate,~~ the department shall provide the sender and the person to whom the letter was sent shall receive a notice stating why the letter was not delivered and the identity of the sender and intended receiver. ~~The letter~~ Correctional staff shall be kept by correctional staff dispose of the letter consistent with s. DOC 303.10.

SECTION 64. DOC 309.05 (6) (f) is renumbered DOC 309.04 (4) (f) and amended to read:

DOC 309.04 (4) (f) ~~The security director's decision to refuse to deliver a letter~~ An inmate may be appealed ~~appeal decisions regarding non-delivery of mail to the superintendent~~ warden, who shall decide the appeal in accordance with these sections ~~this subsection.~~

SECTION 65. DOC 309.05 (6) (g) is renumbered DOC 309.04 (4) (g).

SECTION 66. DOC 309.05 (6) (h) is renumbered DOC 309.04 (4) (h).

SECTION 67. DOC 309.05 (7) is renumbered DOC 309.04 (5).

SECTION 68. DOC 309.05 (8) is renumbered DOC 309.04 (6) and amended to read:

DOC 309.04 (6) ~~Contraband~~ The department shall dispose of contraband found through inspections conducted pursuant to this section shall be disposed of in accordance with the departmental rules s. DOC 303.10.

SECTION 69. DOC 309.05 (9) is renumbered DOC 309.04 (7).

SECTION 70. DOC 309.05 (10) (intro.) is renumbered DOC 309.04 (8) (intro.) and amended to read:

DOC 309.04 (8) (intro.) If an inmate is alleged to have violated these rules or institution policies and procedures relating to mail, ~~a conduct report~~ institution staff shall may be written write a conduct report and which shall be disposed of in accordance with the rules providing for disciplinary procedures for major offenses. For such violation, the department may impose a penalty which may include suspension of mail privileges with a specific person for a specific period, subject to the following:

SECTION 71. DOC 309.05 (10) (a) is renumbered DOC 309.04 (8) (a) and amended to read:

DOC 309.04 (8) (a) ~~A~~ An inmate may appeal a suspension of 6 months or less may be imposed by the adjustment committee and appealed to the superintendent; and warden within 10 days of the imposition.

SECTION 72. DOC 309.05 (10) (b) is renumbered DOC 309.04 (8) (b) and amended to read:

DOC 309.04 (8) (b) ~~A~~ An inmate may appeal a suspension of more than 6 months may be appealed to the superintendent warden within 10 days of its imposition and thereafter to the administrator and the secretary.

SECTION 73. DOC 309.05 (11) is renumbered DOC 309.04 (9).

SECTION 74. DOC 309.05 (12) is repealed.

SECTION 75. DOC 309.06 (1) is renumbered DOC 309.05 (1) and amended to read:

DOC 309.05 (1) The department shall ~~encourage and~~ facilitate inmate reading of publications, including books, magazines, newspapers, and pamphlets. ~~Reading generally fosters correctional objectives by educating inmates and by keeping them informed of events and issues in the community.~~

SECTION 76. DOC 309.06 (2) is renumbered DOC 309.05 (2) and amended to read:

DOC 309.05 (2) Section DOC ~~309.05~~ 309.04 applies to receipt of publications. In addition, the department shall restrict receipt of publications by inmates is subject to the as following follows restrictions:

(a) ~~Publications must~~ Inmates may only be received receive publications directly from the publisher or other recognized commercial sources in their packages.

(b) ~~Inmates shall~~ may not receive publications that:

1. Teach or advocate violence or hatred and present a ~~clear and present~~ danger to institutional security and order.

2. Teach or advocate behavior that violates the law of the state or the United States or the rules of the department ~~of corrections.~~

3. Teach or describe the manufacture or use of weapons, explosives, drugs, or intoxicating substances.

4. Are ~~obscene~~ injurious as defined in s. DOC ~~309.06 (5)~~ 309.04 (4) (c) 8.

5. Teach or describe the manufacture or use of devices that create a substantial danger of physical harm to self or others.

(c) ~~A publication~~ The department shall may not be prohibited prohibit a publication on the basis of its appeal to a particular ethnic, racial, or religious audience or because of the political beliefs expressed therein.

SECTION 77. DOC 309.06 (3) is renumbered DOC 309.05 (3) and amended to read:

DOC 309.05 (3) If a publication is not delivered pursuant to sub. (2), the department shall notify the inmate and the sender shall be notified of the name and address of the sender, the date, and the reason for nondelivery. The sender shall be similarly and the publication shall be returned to the sender. The inmate may appeal

the decision to the ~~superintendent warden~~, who shall decide it within 10 days of the decision.

SECTION 78. DOC 309.06 (4) is repealed.

SECTION 79. DOC 309.35 is renumbered DOC 309.20 and DOC 309.20 (1), (3), (3) (b) (intro.), (3) (b) 1., (3) (b) 2., (3) (c), (3) (f), (4) (intro.), (4) (a) 4., (4) (b) 1., (4) (c) (intro.), (4) (d) 1., (4) (d) 4., (6) (b), (7), and as renumbered, are amended to read:

DOC 309.20 (1) POLICY. ~~Inmates~~ The department ~~are permitted~~ shall permit inmates to have personal property in their possession in an institution subject to this section and the policies and procedures established under this section by the administrator ~~of the division of adult institutions~~ or by the warden ~~or superintendent of an institution~~, relating to the acquisition, possession, use and disposal of inmate property.

DOC 309.20 (3) ACQUISITION, POSSESSION AND USE. Each warden ~~or superintendent~~ shall develop policies and procedures subject to the approval of the administrator ~~of the division of adult institutions~~, relating to the acquisition, possession and use of the personal property of inmates within the institution, and including the following components:

DOC 309.20 (3) (b) (intro.) Permissible methods by which personal property may be acquired by an inmate, including either of the following:

DOC 309.20 (3) (b) 1. Purchase from institution canteen~~†~~.

DOC 309.20 (3) (b) 2. Purchase from approved retail outlets~~†~~.

DOC 309.20 (3) (c) ~~All~~ An inmate shall store all personal property, ~~excluding electronic equipment, typewriters, fans or other large items, shall be stored in receptacles provided as specified by the each institution~~. The volume of an inmate's possession may not exceed the maximums provided under this section.

DOC 309.20 (3) (f) ~~An inmate~~ The department shall be allowed allow an inmate legal materials which are necessary for that inmate's legal actions or the actions of another inmate whom the first inmate is assisting. All of an inmate's legal materials which are kept in the inmate's cell or room shall fit in a receptacle which is no larger than 20" x 20" x 20" or 8000 cubic inches. A warden ~~or superintendent~~ may authorize additional storage space on a temporary basis upon demonstrated need in connection with on-going litigation and consistent with fire codes and regulations.

DOC 309.20 (4) DISPOSAL. Each warden ~~or superintendent~~ shall develop policies and procedures subject to the approval of the administrator ~~of the division of adult institutions~~, relating to the disposal of personal property of inmates within the institution. ~~Inmates~~ The department shall have provide inmates the option of choosing the method of disposal subject to security concerns. ~~The following components~~ department shall include the following components be included:

DOC 309.20 (4) (a) 4. Upon an inmate's release to parole or mandatory release, the department shall disburse funds in an the inmate's account shall be disbursed as specified in s. DOC 309.45 309.27 (5).

DOC 309.20 (4) (b) 1. ~~Personal~~ The institution shall hold property and funds of an inmate who has escaped shall be held in the institution for a period of one year 30 days after which time the property shall be disposed of in accordance with s. DOC 303.10 (3) considered abandoned. The institution shall dispose of the abandoned inmate personal property in accordance with the policies and procedures of the institution. The institution shall not be responsible for damage due to prolonged storage. No property The institution shall not be released release property to family members solely at the request of the inmate's family members.

DOC 309.20 (4) (c) Upon the death of an inmate, and satisfactory verification of next of kin, the warden ~~or superintendent~~ shall:

DOC 309.20 (4) (d) 1. ~~Items~~ The department received at an institution but not approved shall, upon inmate notification to the inmate, be returned return to the sender, items received at an institution which are not approved. The department shall forwarded forward these items by commercial carrier to a person on the inmate's visiting list at the inmate's expense, or arrange to have these items picked up by a person on the inmate's approved visiting list within 30 days. Items The institution shall immediately dispose of items which are not approved and pose a security concern to the institution shall be disposed of immediately. Property The warden shall dispose of property which cannot be disposed of as provided in this paragraph, shall be disposed of at the discretion of the warden or superintendent.

DOC 309.20 (4) (d) 4. ~~Inmates~~ The department shall are permitted permit inmates to sell to other inmates only property items which are specified in policies and procedures established by each warden or superintendent and approved subject to approval by the administrator of the division of adult institutions.

DOC 309.20 (6) (b) For the purposes of transportation, an inmate's legal materials shall fit in a receptacle which is no larger than 20" x 20" x 20" or 8000 cubic inches. ~~Materials in excess of this amount Commercial carrier shall be shipped ship at the inmate's expense by commercial carrier~~ materials in excess of this amount at the inmate's expense. A ~~The warden or superintendent shall~~ may authorize payment of shipping costs for excess materials if the inmate can establish indigence in accordance with s. DOC ~~309.51~~ 309.36.

DOC 309.20 (7) CONTRABAND. ~~Items~~ The institution shall consider items not permitted at an institution or permitted but not on an inmate's property list under sub. (2) ~~shall be considered~~ contraband and subject the items to seizure and disposition under s. DOC 303.10. ~~An~~ The institution inmate may be subject an inmate to discipline for possessing contraband under ss. DOC ~~303.42~~ 303.43 through ~~303.47~~ 303.48.

SECTION 80. DOC 309.56 is renumbered DOC 309.39.

SECTION 81. DOC 309.57 is renumbered DOC 309.40 and DOC 309.40 (4) (a) to (d), as renumbered, are amended to read:

DOC 309.40 (4) (a) To allow an inmate to return a call from an attorney+.

(b) When there is a statutory time limit that would be missed and the inmate needs to convey information to the attorney+.

(c) When it appears to staff that a call to an attorney is in the best interest of the inmate+.

(d) When an inmate is unable to write; ~~or~~.

SECTION 82. DOC 309.58 is renumbered DOC 309.41.

SECTION 83. DOC 309.59 is renumbered DOC 309.42 and DOC 309.42 (1), as renumbered, is amended to read:

DOC 309.42 (1) ~~An~~ The department inmate shall be ~~permitted~~ permit an inmate to make telephone calls to ~~his or her~~ the inmate's spouse, parent, or child committed to another Wisconsin correctional or mental health institution. ~~Such calls~~ The department shall be permitted permit calls under this section only after prior arrangements through appropriate staff have been made. Calls under this section shall be paid for from the account of the inmate originally requesting the call.

SECTION 84. DOC 309.60 is renumbered DOC 309.43 and DOC 309.43 (2), as renumbered, is amended to read:

The ~~superintendent~~ warden may make exceptions to any limits on inmate calls consistent with the policy of this chapter.

SECTION 85. APPENDIX DOC 309.03 (Note) is amended as follows:

Delete sentence #3 paragraph #1.

Amend sentence #4 paragraph #3 to read:

See DOC ~~309.05~~ 309.04.

Amend sentence #1 paragraph #5 to read:

...~~superintendent~~ warden

Delete paragraph #11.

SECTION 86. APPENDIX DOC 309.05 (Note) is renumbered DOC 309.04 and amended as follows:

Amend sentence #1 paragraph #1 to read:

DOC ~~309.05~~ 309.04..

Delete and recreate sentences #2 to #7 paragraph #3 to read:

Subsections (3) to (5) reflect a concern for the security, order and safety of staff, inmates and visitors in preventing contraband from entering an institution. Incoming mail received by an inmate in connection with a complaint filed by the inmate or from an individual listed in sub. (4) may be opened in the presence of the inmate and inspected for contraband. Incoming mail received by an inmate from an individual listed in sub. (4) may be read only to the extent necessary to determine whether it contains contraband or that it is what it is represented to be. Outgoing mail sent by an inmate to the complaint examiner may not be opened or read.

Outgoing mail to an individual listed in sub. (4) may not be inspected or read unless the security director has reason to believe that the mail contains contraband.

Amend sentence #1 paragraph #4 to read:

...under sub. (4) ~~and mail from courts under sub. (5)...~~

Amend sentence #5 paragraph #4 to read:

...sub. ~~(6)~~ (5) (e) (intro.) and 1, (f) and (g).

Delete paragraph #5.

Amend sentence #3 paragraph #6 to read:

...DOC ~~303.48~~ 303.32.

Delete sentence #4 paragraph #6.

Delete sentence #6 paragraph #8.

Delete paragraph #9.

Delete sentences #5 to #7 paragraph #11.

Amend paragraph #13 to read:

Subsection (5) (e) provides for a record of mail, except inmate to inmate, not delivered either because it contains contraband or because it violates sub. (5) (c)...Subsection (5) (f) permits appeal to the ~~superintendent~~ warden...Subsection (5) (g)...

Amend paragraph #15 to read:

Subsection ~~(6)~~ (4)...Subsection ~~(6)~~ (4)...

Amend paragraph #16 to read:

Subsection ~~(8)~~ (6)- ~~(10)~~ (8)...

SECTION 87. APPENDIX DOC 309.06 (Note) is renumbered DOC 309.05 and amended as follows:

Amend sentence #1 paragraph #1 to read:

DOC ~~309.06~~ 309.05...

Amend sentence #2 paragraph #1 to read:

DOC ~~309.05~~ 309.04...

Amend sentence #4 paragraph #2 to read:

DOC ~~309.05~~ 309.04.

Amend sentence #3 paragraph #5 to read:

...DOC ~~309.05~~ 309.04...

SECTION 88. APPENDIX DOC 309.35 (Note) is renumbered DOC 309.20 and amended as follows:

Amend paragraph #1 to read:

DOC ~~309.35~~ 309.20...

Amend paragraph #5 to read:

Subsection (3) identifies some of the methods by which property may come into the institution. Institutions are free to use other methods. Paragraphs (d) to (f) prescribe the size of the receptacles in which all inmate property must be stored. Paragraph (g) allocates responsibility for lost or damaged property and determines the replacement value of property. Subsection (5) states the value of property which is permitted at an institution. Subsection (4) (a)...

Amend sentence #1 paragraph #6 to read:

Subsection ~~(4)~~ ~~(b)~~ (4)...

Amend sentence #2 paragraph #6 to read:

Subsection ~~(4)~~ ~~(e)~~ (3)...

Amend paragraph #7 to read:

Subsection (4) ~~(d)~~ gives institutions authority subject to the approval of the division administrator to regulate the specifications and number of items. Such policies, e.g., as to size of television, are already in effect and will be continued disposal of inmates' personal property.

Amend paragraph #8 to read:

Subsection ~~(5)~~ (7)...

SECTION 89. APPENDIX DOC 309.56 (Note) is renumbered DOC 309.39.

SECTION 90. APPENDIX DOC 309.57 (Note) is renumbered DOC 309.40 and is amended as follows:

Amend sentence #3 paragraph #1 to read:

DOC ~~309.25~~ 309.15...

Amend sentence #4 paragraph #1 to read:

... DOC ~~309.25 & 309.29~~ 309.15 & 309.19.

SECTION 91. APPENDIX DOC 309.58 (Note) is renumbered DOC 309.41.

SECTION 93. APPENDIX DOC 309.59 (Note) is renumbered DOC 309.42.

SECTION 93. APPENDIX DOC 309.60 (Note) is renumbered DOC 309.43 and is amended as follows:

Amend sentence #3 paragraph #1 to read:

...~~superintendent~~ warden.

Amend sentence #1 paragraph #2 to read:

...~~superintendent~~ warden

Amend sentence #2 paragraph #2 to read:

...DOC ~~309.56 (1)~~ 309.39 (1)...~~superintendent~~ warden.

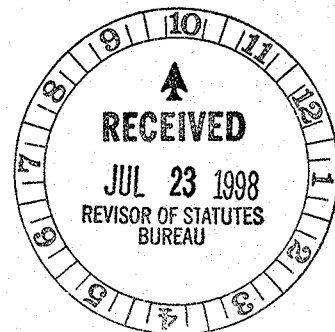
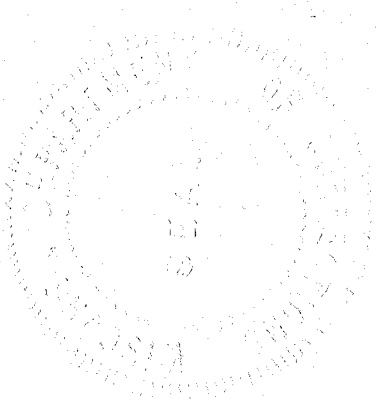
This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Wisconsin Department of Corrections

Date: 7/21/98

By: Michael J. Sullivan
Secretary

Seal:





Tommy G. Thompson
Governor

Michael J. Sullivan
Secretary



Mailing Address
149 East Wilson Street
Post Office Box 7925
Madison, WI 53707-7925
Telephone (608) 266-2471

State of Wisconsin
Department of Corrections

July 23, 1998

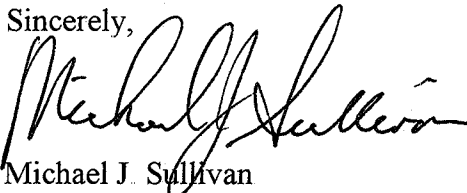
Bruce Munson
Revisor of Statutes Bureau
131 West Wilson Street, Room 800
Madison, Wisconsin 53703-3222

Dear Mr. Munson:

Pursuant to s. 227.20 Stats., the Department of Corrections submits a certified and uncertified copy of DOC 309, relating to the inmate mail, property, and phones.

If you have any questions, please contact Deborah Rychlowski, Office of Legal Counsel, at (608) 266-8426.

Sincerely,



Michael J. Sullivan

Attachments

