

COMAL COUNTY SHERIFF'S OFFICE
DETAINEE CORRESPONDENCE POLICY

- I. **POLICY:** The Comal County Sheriff's Office ("CCSO") recognizes the rights of Detainees to free access to books, publications, courts, attorneys and government officials. CCSO also encourages all Detainees to maintain ties with their friends, which will aid in their reintegration process. This policy sets forth the procedures and regulations necessary for allowing Detainees to send and receive correspondence, as well as publications, in a consistent manner to ensure the proper processing of Detainee mail.
- II. **PURPOSE:** This plan establishes guidelines for the handling of privileged and non-privileged Detainee correspondence, both outgoing and incoming, and shall provide for the collection and distribution of correspondence.
- III. **DEFINITIONS:** As used in this document, the following definitions shall apply:
- A. **Privileged Correspondence:** Mail addressed to or from:
1. Officials of the federal, state and local courts;
 2. All federal and state officials and agencies, including the President of the United States;
 3. Bona Fide News Media; and
 4. A licensed attorney. Jail staff may confirm that sender is a licensed attorney and sent the correspondence to the addressee detainee.
- B. **Bona Fide News Media :** Includes all companies, individuals and organizations listed in *Gail Directory of Publishing* or *Editor and Publisher Yearbook*.
- C. **Indigent Detainee:** A Detainee who has \$5.00 or less in their personal property and/or maintains a daily average balance of \$5.00 or less in their Inmate Trust Fund for a period of seven (7) consecutive days.
- D. **Non-Privileged Correspondence:** Any mail addressed to or received from persons or organizations not listed as Privileged Correspondence.
- E. **Negative Mailing List:** Persons on that list may be:
1. Minors, other than:
 - (a) Minors related to the Detainee as son or daughter, unless otherwise ordered by a court having jurisdiction over the Detainee or the minor;

- (b) Minors related to the Detainee, except as son or daughter, unless the minor's parent or guardian objects, or as otherwise ordered by a court having jurisdiction over the Detainee or the minor; and
 - (c) Other minors whose parents or guardians consent in writing, unless otherwise ordered by a court having jurisdiction over the Detainee or the minor.
- 2. Individuals who request, in writing, not to receive further correspondence from the Detainee;
- 3. Other Detainees at a jail or prison who request, in writing, not to receive further correspondence from the Detainee, or as ordered by a court having jurisdiction over either Detainee;
- 4. Victims or alleged victims of the Detainee with whom the court prohibits contact; and
- 5. Individuals who have attempted to send Contraband into the institution or otherwise committed a serious violation of these correspondence rules, as determined by the Jail Administrator or his/her designee. A person who commits a serious violation of this policy may be prohibited from any further correspondence with a particular Detainee and may be placed on a Negative Mailing List of persons with whom that particular Detainee may not correspond. Within three (3) business days of placement on a Negative Mailing List, a notice, accompanied by a statement of the reason for placement on the Negative Mailing List, shall be sent to the disallowed person and to the Detainee, along with the procedures to appeal the decision to the Chief Deputy.

IV. PROCEDURES

A. General Mail Services

- 1. All outgoing correspondence shall be stamped, unsealed until inspected, and include the Detainee's full return address at the Comal County Jail.
- 2. Sending and receiving correspondence shall be available to all Detainees on an equitable basis. Detainees shall be permitted to send as many letters of as many pages as they desire provided they can pay for applicable postage.
- 3. Detainees can correspond with any person not on the Detainee's Negative Mailing List, as that term is defined herein. Detainees shall be denied permission to correspond with persons on the Detainee's Negative Mailing List.

4. Detainee-to-Detainee correspondence may be prohibited where a legitimate penological interest exists.
5. Correspondence and packages shall be processed within 72 hours, excluding weekends, and holidays. Detainees may receive correspondence in any quantity, amount and number of pages.
6. Supplies (envelopes, stationery, stamps) shall be available for Detainees to purchase through the commissary. Detainees shall be allowed to retain writing materials, stamps and correspondence in reasonable amounts so as not to constitute a fire hazard or otherwise.
7. If requested by an Indigent Detainee, jail staff shall furnish a reasonable amount of paper, writing instruments, envelopes, and stamps for Privileged Correspondence. Additionally, Indigent Detainees shall be furnished paper, writing instruments, envelopes, and stamps to post at least three (3) letters a week for Non-Privileged Correspondence. A negative balance may be maintained on the Detainee's Inmate Trust Fund for indigent postage and correspondence supplies.
 - (a) Postage provided for an Indigent Detainee shall be limited to First Class mail and shall not include registered, certified or insured mail.
 - (b) All Privileged Correspondence must have an address that can be verified. Documentation shall be maintained within the facility's mail room logbook, listing the total amount of postage spent per day for an Indigent Detainee's Privileged Correspondence. Mail without postage shall be checked to verify both the privileged status of the addressee and the indigent status of the Detainee. Upon verification of both, the correct postage (First Class only: no certified, insured or registered postage) will be placed on the envelope. Documentation shall be maintained listing the Detainee, addressee, amount of postage used and correct date.

V. INSPECTION OF ALL INCOMING AND OUTGOING ITEMS OTHERS THAN PRIVILEGED CORRESPONDENCE

- A. Mail addressed to or received from persons or organizations not listed in Section III.A. shall be considered Non-Privileged Correspondence. All incoming Non-Privileged Correspondence may be opened and may be censored, provided a legitimate penological interest exists, as well as inspected for Contraband or other enclosures by Jail staff. This correspondence may be read, censored and/or rejected as set forth in paragraph B below.
 1. A copy of the original correspondence that is censored or rejected should be retained, at least until any appeals process is completed.

2. The Detainee to whom the correspondence was addressed and the sender of the correspondence will be notified of the reasons for such action and be given the opportunity to appeal the decision through the grievance process as set forth in this policy. If Contraband is discovered, it shall be confiscated and the Detainee to whom it was addressed will be advised of such action.
 3. Detainees will not be allowed to keep the sender's envelope(s). After the Detainee receives the contents of the correspondence, the envelopes will be discarded. Detainee will be given the opportunity to copy down the return address.
- B. Rejection of incoming mail or other items addressed to Detainees.
1. Any incoming mail or other items containing items that: (1) Detainees are not allowed to have in their possession; and/or (2) presents a threat to the safety or security of the staff, Detainees, institution, or public (hereinafter collectively referred to as "Contraband") shall be removed. Contraband does include any written material disapproved for its content.
 - (a) If Contraband is found in an incoming letter, publication or book, the Contraband shall be removed, if possible, and the item will be delivered. If the Contraband cannot be removed from the letter, book or publication, the item shall not be delivered to the Detainee.
 - (b) Individuals who have attempted to send Contraband into the Comal County Jail or have otherwise committed a serious violation of these correspondence rules, as determined by the Jail Administrator or his/her designee, may be prohibited from any further correspondence with a particular Detainee and may be placed on the Negative Mailing List of that particular Detainee. Within three (3) business days of placement on a Negative Mailing List, a notice, accompanied by a statement of the reason for placement on the Negative Mailing List, shall be sent to the disallowed person and to the Detainee, along with the procedures to appeal.
 - (c) At the Sheriff's discretion, contraband may be returned to the sender, and the cost of returning contraband will be deducted from Detainee's Inmate Trust Fund. Detainee will be given notice of the deduction from their Inmate Trust Fund and may appeal the withdrawal.
 2. Inflammatory writings and pornography contained in general correspondence, magazines, photos, newspapers, periodicals and other publications will be rejected on a case-by-case basis, including but not limited to:

- (a) Information regarding the manufacture of explosives, weapons or drugs;
- (b) Materials a reasonable person would consider written specifically for the purpose of communicating information designed to achieve facility disruption through Detainee disturbances, riots or strikes;
- (c) Publications contributing to or encouraging criminal behavior or other behavior which is considered detrimental to Detainee rehabilitation;
- (d) Writings based on specific factual information that is determined to be detrimental to Detainee rehabilitation because it would encourage deviate criminal sexual behavior; and
- (e) Information which, if communicated, would create a danger of violence and physical harm to another human being.

C. Detainee Outgoing Mail:

- 1. All outgoing Non-Privileged Correspondence may be opened and may be censored, provided a legitimate penological interest exists.
- 2. Unless mail is from an Indigent Detainee, all Detainee mail, to include Detainee-to-Detainee mail, must have a U.S. postage stamp prior to being mailed out.
- 3. Detainees must not seal outgoing correspondence, unless the mail is Privileged Correspondence.
- 4. Detainees should not send other Detainees personal items of property through the mail.
- 5. Detainees are not allowed to send clothing or material of any type through the mail.

VI. UNDELIVERED CORRESPONDENCE

- A. The following types of mail will be considered undeliverable and will be returned to the sender:
 - 1. Correspondence that does not have a complete address sufficient to allow an officer to identify the addressee Detainee from inspection of the envelope will be stamped "Return to Sender/Incomplete Address," and returned to the sender unopened.
 - 2. Correspondence addressed to a Detainee no longer in the Comal County Jail System shall be returned to the sender.

3. Mail containing the following items will be considered undeliverable:
- (a) Cash, personal checks, payroll checks and certified checks will not be permitted in the correspondence. The assigned jail staff shall fill out the appropriate forms to document the receipt of cash, checks, etc., and the return of the cash, money orders or certified checks to the sender.
 - (b) All books, booklets, magazines or other publications.
 - (i) All books, booklets and magazines must come directly from the publisher or a bona fide bookseller (such as Amazon) and no hard cover bound books are allowed. Any books, booklets and magazines not received from the publisher or a bona fide bookseller will be returned to the sender and any cost associated with returning the item shall be deducted from the addressee Detainee's Inmate Trust Fund. A "bona fide bookseller" constitutes an entity that regularly engages in the sale or distribution of books.
 - (c) Eyeglasses.
 - (d) Stickers are not allowed on stationary. All envelopes will be retained by jail staff.
 - (e) Greeting cards larger than 8x11.
 - (f) Musical cards.
 - (g) Postage stamps, envelopes or stationary. All postage stamps, envelopes or stationary must be purchased through the Jail Commissary.
 - (h) Hard plastic/laminated cards.
 - (i) Jewelry or cosmetics.
 - (j) Polaroid photos of any size.
 - (k) Clothing or material of any type.
 - (l) Photographs containing hand gang signs, gestures, or life-size tattoos.
 - (m) Photos or items showing nude/partially nude/sexually explicit photographs of any type.
 - (n) Photographs taped, glued or pasted to cards, letters, etc.

- (o) Photographs of children not fully clothed.
 - (p) Glue, glitter, tape, beads, string, or wire on cards or envelopes.
 - (q) Human hair or personal body items.
 - (r) If the mail or publication contains staples or paperclips, the staples and/or paperclips will be removed prior to delivery.
- 4. Magazines, newspapers or periodicals addressed to Detainees shall not be deliverable if they are not sent directly from the publisher and will be returned to the sender.
 - 5. Detainees shall not be permitted to receive mail sent “standard rate” or “bulk rate,” unless it is addressed to a specific Detainee. All other mail sent “standard rate” or “bulk rate,” as indicated by the U.S. Postal Service stamp, may be discarded upon receipt by the facility without notice to the Detainee.
 - 6. Detainees are not permitted to send or receive any type of correspondence on a cash-on-delivery (COD) basis. Unauthorized items arriving by mail shall be returned to the sender at the expense of the addressee Detainee if ordered by the Detainee, unless the Detainee is without funds, in which case the mail shall be returned at the sender's expense. Detainees shall be notified when COD mail is returned to the sender.
- B. When deemed necessary to return or censor any incoming mail, a written record shall be made. Such a record shall include:
- 1. Detainee’s name and SID number;
 - 2. Description of the mail in question;
 - 3. Action taken and the reason therefor;
 - 4. Disposition of the mail; and
 - 5. Name of authorized supervisor authorizing the action.
- C. Incoming certified or registered mail addressed to Detainees shall be signed for by the assigned jail staff. The assigned jail staff shall verify that the Detainee is in custody prior to opening the certified mail. The assigned jail staff shall return the mail to the sender if the Detainee is not in the facility and the assigned jail staff will keep a log book of all certified and registered mail returned.

- D. All items received in the mail that the Comal County Sheriff's Office believes might be illegal shall be turned over to the Comal County Sheriff's Office, Criminal Investigation Division (CID). A Facility Incident Report (FIR) shall be written and, if applicable, a Comal County Sheriff's Office Offense Report shall be submitted.

VII. PRIVILEGED CORRESPONDENCE

- A. Privileged Correspondence shall be treated as privileged only if the name and official status of the recipient/sender appears on the envelope.
- B. Incoming Privileged Correspondence may be held prior to further process for a reasonable period of time (normally not to exceed two (2) business days) to allow verification of the privileged status of the addressee/sender.
- C. Outgoing Privileged Correspondence addressed to the persons listed in Section III.A. can be sealed by the Detainee and shall not be opened or interfered with unless a search warrant is obtained.
- D. Incoming Privileged Correspondence from persons listed in Section III.A. shall be opened only in the presence of the Detainee by the supervisor or designee. Inspection of Privileged Correspondence shall be limited to only locating Contraband.
- E. Whenever jail officials have probable cause to suspect incoming Privileged Correspondence is part of an attempt to formulate, devise or otherwise effectuate a plan to escape from the jail, to violate state or federal laws or to violate rules of the Comal County Jail; officials shall obtain a search warrant prior to opening and reading the correspondence involved.

VIII. MISCELLANEOUS CORRESPONDENCE

- A. Outgoing Certified Mail:
 - 1. The assigned jail staff will be responsible for the handling of certified mail.
 - 2. The Detainee shall complete a certified mail form and forward it with the correspondence to the assigned jail staff along with a Inmate Trust Fund Withdrawal Form.
 - 3. The assigned jail staff will deliver the completed Inmate Trust Fund Withdrawal Form necessary for withdrawal of funds from the Detainee's Inmate Trust Fund.
 - 4. The assigned jail staff will take the correspondence, along with the necessary funds, to the Post Office for certification.

5. Indigent Detainees do not have certified mail privileges.
- B. Magazine/Book Subscriptions:
1. Detainees will be allowed to order magazine or book subscriptions directly from a publisher. Such subscriptions must not violate Section VIII, Miscellaneous Correspondence.
 2. Procedures for ordering subscriptions are as follows:
 - (a) The Detainee will provide a complete Inmate Trust Fund Withdrawal Form along with a stamped, self-addressed envelope and subscription order to the assigned jail staff.
 - (b) The assigned jail staff will deliver the envelope to the United States Postal Service for processing.
 - (c) Detainees shall not receive publications of any kind on a trial basis with payment postponed.
- C. Receipt of Publications (books, magazines, newspapers, newsletters, etc.)
1. A Detainee may receive publications in the mail only directly from the publisher or bookstore. Detainees ordering publications shall forward payment for subscription to an individual publication with the order. Persons desiring to give publications directly to individual Detainees must have the publications mailed directly from the publisher or publisher's supplier, including bookstores. Detainees may receive gift publications.
 2. Publications received by Detainees may be in languages other than English.
 3. Packages of publications (books, etc.) may be sent to Detainees by publishers or bona fide booksellers. The Comal County Jail shall accept delivery of packages from public carriers only, such as USPS, UPS, FedEx, or DHL. The package must identify the person (Detainee or other) who ordered the publication. A package that does not identify the person ordering the publication shall be returned to the sender.
 4. All incoming packages shall be subject to inspection. If inspection reveals private correspondence, Contraband, or other evidence that the package was not sent by the publisher or bona fide bookseller, the package and all of its contents shall be returned to the person who ordered the publication or to the sender.
 5. Detainees shall be notified when unauthorized packages have been denied.

D. Content Inspection of Publications

All publications are subject to inspection by assigned staff. The Jail Administrator or his/her designee has the authority to accept or reject a publication for content, subject to review by the Chief Deputy. The Jail Administrator or his/her designee shall render decisions on publications reviewed within fourteen (14) days of receipt, with a goal of rendering the decision within five (5) business days. Detainees do not have to be notified when magazines, books or other publications are being held for review. Publications shall not be rejected solely because the publication advocates the legitimate use of Detainee grievance procedures, urges Detainees to contact public representatives about jail/prison conditions, or contains criticism of authorities.

1. Rejection Due to Content

A publication may be rejected if:

- (a) it contains Contraband that cannot be removed;
- (b) it contains information regarding the manufacture of explosives, weapons, or drugs;
- (c) it contains material that a reasonable person would construe as written solely for the purpose of communicating information designed to achieve the breakdown of prisons through Detainee disruption such as strikes, riots, or violent actions activity;
- (d) a specific determination has been made that the publication contains graphic presentations of sexual behavior that is in violation of the law, such as rape, incest, sex with a minor, bestiality, necrophilia, or bondage;
- (e) it contains sexually explicit images (Publications shall not be prohibited solely because the publication displays partially covered buttocks. Subject to review by the Jail Administrator or his/her designee and on a case-by-case basis, publications constituting educational, medical, scientific, or artistic materials, including, but not limited to, anatomy medical reference books, general practitioner reference books or guides, *National Geographic*, or artistic reference material depicting historical, modern, or post modern era art, may be permitted.); or
- (f) it contains material on the setting up and operation of criminal schemes or how to avoid detection of criminal schemes by lawful authorities charged with the responsibility for detecting such illegal activity.

2. Notice

If a publication or package is rejected, the Detainee and sender shall be provided a written notice of the rejection and a statement of the reason for rejection within three (3) business days of the rejection date on a Publication Denial Form, along with the procedures to appeal. The Detainee shall be given a sufficiently detailed description of the rejected publication to permit effective use of the appeal procedures. The Detainee or sender may appeal the rejection of the publication through procedures outlined in this policy. Publications approved by the Jail Administrator or his/her designee shall be delivered to Detainees within three (3) business days.

3. Handling of Rejected Items

Any incoming or outgoing correspondence, publications, or packages that are rejected based on content shall not be destroyed, but shall remain with the Jail Administrator staff subject to examination and review by those involved in the administration of the appeal procedures outlined herein. Upon completion of the appeal procedures, if the correspondence or publication is rejected, the Detainee may request that it continue to be held in the custody of the mailroom staff for use in any legal proceeding contemplated by the Detainee, or that it be disposed of in one of the following manners, unless security concerns mandate that the Detainee not have a choice in the disposition:

- (a) Mail the publication or correspondence to any person at the Detainee's expense; or
- (b) Destroy the publication or correspondence, only with the Detainee's written permission.

4. List of Rejected Publications

A list of publications rejected during the last two months shall be noted on the Law Library Holdings List. The list shall be updated every month.

IX. APPEAL PROCEDURES

A. Placement on Negative Mailing List

Any Detainee, other correspondent, or sender of any correspondence or publication may appeal the placement of the correspondent on the Detainee's Negative Mailing List.

1. Appeal Procedure

A written notice of appeal, including justification, shall be sent to the Chief Deputy within two (2) weeks of notification of placement on the Detainee's Negative Mailing List.

2. Final Decision

The Chief Deputy shall render its decision within two (2) weeks after receiving the appeal, and shall issue written notification of the decision to the parties involved.

3. Reconsideration

A Detainee, other correspondent, or sender may appeal to the Chief Deputy for reconsideration of the Negative Mailing List placement after six months.

B. Rejected Items

Any Detainee, other correspondent, or sender of any correspondence or publication may appeal its rejection and may submit written evidence or arguments in support of their appeal.

1. Appeal Procedure

A written notice of appeal, including justification, shall be sent to the Chief Deputy within two (2) weeks of notification of rejection. Upon receipt of the appeal, the correspondence or publication in question shall also be sent to the Chief Deputy.

2. Final Decision

The Chief Deputy shall render its decision within two (2) weeks after receiving the appeal, and shall issue written notification of the decision to the parties involved.