



THE NATIONAL PRISON PROJECT

January 21, 1997

Pocatello Women's Correctional Center
P.O. Box 6049
Pocatello, Idaho 83205-6049

Re: Witke v. Spalding, Case No. Civ. 82-3078

Dear Clients:

We are writing to inform you that we have entered into an agreement with the DOC's lawyer for dismissal of the Witke lawsuit, upon court approval. We entered into the agreement because we believe the lawsuit has served its purpose and we have achieved all that we are entitled to under the current state of the law. We are writing to explain the reasons that we hold this view.

We have carefully reviewed all of the letters you have sent to us in the past few months. Unfortunately, with three possible exceptions, the concerns do not rise to the level of violations of the Witke agreements or of the Constitution. Prisoners' rights have been significantly eroded in the past many years. For example, your due process and legal access rights have been greatly curtailed. These developments must be considered in determining whether the lawsuit has, realistically speaking, served its purpose. The two problems pointed out in your letters that we think merit further attention are the following:

First, you informed us that the hot water on Unit 3 is difficult to regulate such that it sometimes suddenly turns extremely hot and has burned several inmates.

Second, we were told that the sprinkler system and/or fire alarm have not gone off during any one of the several fires that have occurred in the past -- two fires on the roof in the middle of the night; one in the medium unit laundry room from a short in a dryer; one on the minimum tier (unit 2) from a short in the heating system; and one in the art room from a kettle. We were also told that inmates were not evacuated during any one of these fires.

Third, PWCC has lacked a full-time psychologist since Clovis Kinney left in March 1996. Although Dr. Hatzenbuehler spends fifteen hours per week at the facility, a full-time person is necessary.

We have brought these issues to the attention of the DOC lawyer. We are hoping that they can be taken care of before the lawsuit is dismissed.

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Another factor to consider is that this lawsuit is a "class action." It is based on a claim that the entire system is deficient, from a constitutional perspective. Isolated or sporadic instances of a problem do not suffice to maintain a class action; instead, problems must be widespread and recurrent. We do not see evidence of this at PWCC, particularly under the current state of the law of prisoners' rights.

Furthermore, this lawsuit was initiated in an effort to equalize the treatment of women prisoners with that of men, particularly with respect to programs. Despite the problems at PWCC, the programs available to the prisoners at PWCC are significantly improved over those that were available at Orofino. Similarly, although some of you have felt dissatisfied with the medical care, the medical expert we have retained -- who is extremely competent and well respected -- has told us that the system has greatly improved since Orofino and that the current system for the delivery of medical care is reasonably good. Unfortunately, the Constitution demands no more than that the system be minimally adequate.

The dismissal of Witke will not impact your ability to seek relief from a court on an individual matter of any kind. Furthermore, if there are significant changes to the factual or legal circumstances, you will be able to bring another class action lawsuit regarding the issues raised in Witke. (Of course, the dismissal will not affect your ability to bring a lawsuit regarding issues that were not addressed in Witke.)

When the judge determines whether dismissal of this lawsuit is appropriate, he will be guided by consideration of the factors described in this letter. Nonetheless, if you object to the dismissal, you are entitled to inform the judge of the reasons for your objection. The lawsuit will not be dismissed until the judge has reviewed any objections. Sometime in the near future, you will see a "Notice to the Plaintiff Class" posted around the institution. It will tell you how to file objections, if you believe objections are warranted.

We say all of this in an effort to help you understand the factors that guided our decision-making process. We hope you understand that our decision was made after much deliberation and consideration of all of the available alternatives.

Sincerely,



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VI. INSTITUTIONAL PROGRAMS AND ACTIVITIES

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 605	PAGE NUMBER: 1 of 1
	SUBJECT: Policy for Release of Inmates on Furlough	

Policy of the Department

To provide the criteria and procedures whereby selected inmates may participate in the furlough program for the purposes of strengthening such family and community ties as the inmate may have; assisting the inmate in developing, preserving, and maximizing his financial and interpersonal ties; stabilizing responsible social attitudes and behavior; obtaining needed health services not otherwise available; handling emergency situations; and for other purposes consistent with the furtherance of an inmate's rehabilitation plan.

Procedure

1. An Administrator of an institution is authorized to grant furloughs in accordance with institutional rules and regulations and Idaho Code 20-101C to inmates who have a good behavior record, and are classified under minimum custody status. Each institution or facility shall have a specific furlough procedure. Furloughs granted under I.C. 20-101C shall be in accordance with statutory requirements. Furloughs may be granted for the following purposes:
 - a. Emergencies, including critical illness, death, emotional crisis, or similar situations in the inmate's immediate family.
 - b. Obtaining health services not available in any of the Department's institutions.
 - c. Seeking employment if:
 1. Specific job interviews have been arranged.
 - d. Setting residential plans for parole release.
 - e. Caring for business affairs in person when not doing so would cause depletion of an inmate's assets or resources so seriously as to affect his family or future economic security.
 - f. Family visits in order to strengthen or preserve relationships, exercise parental responsibilities, or prevent family division or disintegration.

(a) - passes and furloughs

THE POLICIES AND PROCEDURES
OF
THE IDAHO COMMISSION FOR PARDONS AND PAROLE

which pertain to inmates
currently incarcerated in
The Idaho State Correctional Institutions



Revised
March 1, 1984

- (b) - parole

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FORWARD

The Idaho Commission for Pardons and Parole is a five member board appointed by the Board of Corrections and confirmed by the State Senate.

Members serve five year terms as established by Idaho Code 20-210.

The Commission functions are delineated and restricted by the State Constitution and the laws of the State of Idaho.

The policies and procedures which follow have been established pursuant thereto. The Commission reserves the right to deviate from these normal procedures whenever it determines that extraordinary circumstances so warrant. The Commission additionally reserves the right to act at its discretion in circumstances not specifically outlined by its policy.

Following parole, pardon and commutation hearings, each county prosecuting attorney shall be informed of the action taken.

PART ONE - THE PAROLE PROCESS

Parole: A conditional release from a penal institution under a contractual agreement between the Commission for Pardons and Parole and a convicted felon. Parole is not a right but a privilege. The process regarding the granting or denial of parole is as follows:

1. The Primary Interview

- A. Every inmate will be interviewed by a Commissioner or representative of the Commission within six months after being received as a commitment to the Idaho Department of Corrections. Exceptions: 1) Any inmate with a sentence of three years or less will be given a Primary Interview at three (3) months; 2) Any inmate retained upon relinquishment of jurisdiction by the Court will be interviewed two months following retention.
- B. The purpose of the Primary Interview is:
 - 1. To establish the Commission's basic record.
 - 2. To introduce the inmate to the general orientation of the Commission.
 - 3. To make the inmate clearly aware of any sentencing restrictions.
 - 4. To establish the date for the inmate's initial appearance before the Commission.
- C. If, concurrently with a sentence restricted under Idaho Code 20-223 (Appendix I), an inmate is serving another sentence for a crime not so restricted, the inmate will not be granted a parole appearance on the unrestricted sentence until he is eligible for parole on the restricted sentence.
- D. Where an inmate incarcerated in a facility in another State is eligible for a Primary Interview, the Commission may ask the administration of that institution to make arrangements which would enable a Commissioner or the Commission's representative to conduct this interview by long distance telephone rather than traveling to the institution where the inmate is incarcerated.
- E. An inmate who escapes prior to the Primary Interview will be scheduled for a Primary Interview within six (6) months after being returned to the custody of the Idaho Department of Corrections.
- F. Normally, an inmate shall not be considered by the Commission for parole until after the Primary Interview.

II. The Parole Hearing

A. The Scheduling

1. The Commission for Pardons and Parole will hold regular parole hearings and parole revocation hearings each month. These hearings will normally be conducted by a quorum of three Commissioners. The Commission hearing days in January, April, July and October are normally reserved for the consideration of pardon and commutation hearings by the full Commission, and parole consideration of inmates whose parole hearing is restricted by Idaho Code 20-223. (Appendix 1)
2. Unless otherwise restricted by Idaho Code 20-223, the length of time between parole hearings shall be based upon factors including, but not limited to, the length of maximum sentence, seriousness of the instant offense, extensiveness of the criminal record, and relative degree of rehabilitative progress. Any inmate whose next parole hearing is scheduled more than thirty (30) months in the future shall receive a jacket review no less frequently than every thirty (30) months.
3. At least thirty (30) days prior to the date of the scheduled hearing, a list of the names of the inmates scheduled for hearing in that month will be mailed or otherwise communicated to all district court judges, all prosecuting attorneys, and all sheriffs and chiefs of police in the State of Idaho.
4. No inmate is required to be present at his scheduled parole hearing, but will be afforded every reasonable opportunity to do so.
5. When an inmate is incarcerated in an institution other than the Idaho State Correctional Institution, the parole hearing may, and ordinarily will, be conducted either by telephone conference call with the Commission or by a Commissioner or representative of the Commission at the institution where incarcerated. If the hearing is conducted at the institution where the inmate is incarcerated, information from the hearing will be presented to the Commission during its regularly scheduled hearing at which time a decision to grant or deny parole will be made.

B. The Parole Hearing

1. The Commission invites and encourages the inmate's correctional counselor to be present at his parole hearing. No witness on behalf of a parole applicant will be allowed to testify at parole hearings unless the Commission has reason to believe that he can provide important information which can be obtained in no other way. Representatives and witnesses must be scheduled through the Executive Secretary at least five (5) days prior to the day on which the hearing is scheduled.
2. Staff members, other than the inmate's correctional counselor, will not be heard except upon approval or invitation of the Commission.

C. The Decision

1. The granting of a parole depends exclusively upon the discretion of the Commission for Pardons and Parole. In general, a parole is granted

only when, in the judgement of the Commission, an inmate, otherwise eligible, will be thought likely to avoid further violation of the law and live as a good citizen. The Commission evaluates each case upon its individual merits and acts to grant or deny release on parole as its best judgement dictates.

2. The Commission has established criteria to be used in parole consideration. These criteria are frequently reviewed by the Commission and fall within certain general areas. They pertain to:
 - a. The seriousness and aggravation/mitigation involved in the crime for which subject is incarcerated.
 - b. Official reports regarding the extent of subject's criminal career.
 - c. Failure or success of past probation or parole.
 - d. Institutional adjustment and ability to conform to established rules and procedures.
 - e. Involvement in available programs that are likely to assist subject after release.
 - f. Evidence of the development of a positive social attitude and a willingness to fulfill the obligations of a good citizen.
 - g. Official reports of exceptional conduct, involvement in institutional disorder or the exploitation of other inmates.
 - h. The strength and stability of the proposed parole plan.
 - i. Reports of physical, mental or psychiatric examinations.

The Commission may also consider recommendations and information from other sources such as institutional staff, judges, prosecuting attorneys, law enforcement officials, defense attorneys and family, so long as the information is related to specific facts relevant to the proceedings.

3. Regarding the inmate's parole plan: The two main stipulations are that the inmate shall have adequate arrangements for employment or maintenance and care and an adequate home placement. The adequacy of employment and home placement are determined by a parole officer in a pre-parole investigation. Inmates with particular problems (such as alcoholism, incapacitating physical disorder, etc.) may be paroled to some facility in which care will be provided. An educational program may be considered as adequate "employment", provided that the parole applicant presents evidence of ability to complete successfully, work at that academic or vocational level, and provided that evidence of adequate funding is presented.
4. A decision to grant or to deny a parole must be made by a majority of the five members of the Commission. If, at a regular hearing, the vote of the three Commissioners is not unanimous, the case will be continued to a time when a sufficient number of Commissioners are present to obtain a majority vote of the full Commission.

5. Once the Commission has made its decision, the inmate will not be permitted to present additional arguments.
6. If an inmate is involved in a major disciplinary rule infraction after a parole or final release date has been granted but before being released, the release will be postponed and the circumstances of the rule infraction reported to the Commission at the inmate's jacket review prior to release. If the case had already been jacket reviewed, the Commission will review the circumstances at its next scheduled meeting. The Commission may: (1) reinstate the parole or release date; (2) suspend the parole or release date until the inmate is ninety (90) days disciplinary free; or (3) rescind the parole or release date granted and schedule another parole hearing.
7. An inmate who is convicted of either a misdemeanor or felony crime committed in the institution should expect to be required to serve one-third (1/3) of the time remaining until the goodtime release date of the sentence being served at the time the crime was committed, or five (5) years, whichever is the least, before receiving consideration for discharge or parole.
8. If, after a parole or final release date has been granted but before an inmate is released, the Commission receives additional information concerning the inmate which might reasonably have resulted in a parole or release date not being granted at a prior hearing, the Commission may cancel the date granted and schedule another parole hearing.

D. Escape Policy

This policy requires the inmate to serve one-third (1/3) of the time remaining until the goodtime release date of the sentence being served at the time of the escape, or five (5) years, whichever is the least, before receiving consideration for discharge or parole.

1. When an inmate is found by the Institution's Adjustment Committee to have violated the Institution's rules by escaping, or by attempting or conspiracy to escape, and, for any reason, is not charged with the crime of Escape, he/she may be regarded by the Commission as having escaped, and its escape policy may be applied.
2. If an inmate escapes from the custody of the Idaho Department of Corrections and subsequently is incarcerated in another state correctional facility, the Commission authorizes the sentence being served at the time of escape to recommence on the date of adjudication and/or dismissal of the escape charge by the Idaho judicial authorities.

E. Parole to a Detainer

The policy of the Commission with regard to parole to detainees is, in general, in accord with the principles recommended by the Association of Administrators of the Interstate Compact for the Supervision of Parolees and Probationers.

1. The status of detainees held against prisoners in institutions shall be investigated, insofar as is reasonably possible, prior to a parole hearing.

2. If, at the time of the parole hearing, a valid detainer has been lodged against an inmate, the Commission will grant parole to such detainer only if the status of that detainer has been investigated and parole is deemed appropriate.
3. If, prior to the inmate's release, it is learned that the detaining jurisdiction will not exercise its detainer, the parole will be regarded as null and void, and the subject must return before the Commission for further consideration.

F. Consecutive Sentences

When an inmate has two or more sentences to be served consecutively, the first of the consecutive sentences will be considered as a single sentence with little regard for sentences remaining to be served at the time of the parole decision. In other words, an inmate serving the first of consecutive sentences ordinarily will not receive a final discharge from his first sentence any more quickly than he would be paroled if this were the only sentence being served.

G. Fixed Term Sentences

Inmates convicted and sentenced with Fixed Term sentences are not eligible for parole consideration and will not receive a parole hearing on these sentences (Appendix 3).

H. Self-Initiated Parole Hearings

The Idaho State Correctional Institution enables inmates to earn work credits, and had provided for exchange of work credits for a Self-Initiated Progress Report. Very few hearings are granted, and generally, only when the circumstances have changed significantly since his/her last parole hearing.

1. Inmates requesting a Self-Initiated Parole Hearing must have had their initial hearing before the Commission.
2. Inmates who wish a Self-Initiated Parole Hearing will notify their counselor, who will provide them with form "Self-Initiated Progress Report." When the form is completed by the inmate and returned to the counselor, the counselor will sign the form, forward it to the Commission, and insure work credit expenditure is entered in the inmate's central file.
3. The Commission will review the Self-Initiated Progress Reports only during its January, April, July and October meetings.
4. If, after considering the Self-Initiated Progress Report, the Commission grants a special parole hearing, the inmate will not be required to exchange work credits in addition to those used for the progress report. Additionally, the date for the regularly scheduled parole hearing will not be affected.
5. An inmate will be permitted only one special parole hearing in any calendar year.

III. Parole Release

A. Following the granting of a parole, the following process begins:

1. The inmate's correctional counselor submits a "half-sheet" to the Commission. This is a form which contains the details of the parole plan. Counselors will not submit "half-sheet" forms any earlier than ninety (90) days prior to the tentative parole date for out-of-state plans, and no earlier than thirty (30) days for Idaho plans.
 2. When the plan is submitted, the Commission secretary compiles a packet of basic data and sends it to the district office of the Division of Probation and Parole near where the inmate wishes to serve parole. If the inmate has been granted an out-of-state parole, the packet is sent through the Interstate Compact to that state.
 3. When the packet is received in the district office, it is assigned to a parole officer who will investigate the plan. In Idaho this investigation is usually completed within two weeks from the day it is received in the district office. For an out-of-state plan, sixty (60) days or longer may be required to complete the investigation.
 4. While the plan is being investigated, the inmate is required to attend Parole School. This is a period of instruction on the obligations of being a parolee. An inmate who is being paroled to a detainer is not required to attend.
- B. Upon being granted a parole, the inmate is required to enter into an agreement with the Commission to adhere to a set of standard rules and regulations. The Commission, at its own discretion, or upon recommendation of the habilitation staff or the parole field staff, may add additional regulations in specific cases. The inmate will be given a copy of the conditions of parole.
1. A parole release will not be granted until the inmate has attended a period of instruction in which the substance and implications of the standard parole rules and regulations will be thoroughly explained.
 2. Except in very unusual circumstances, described below, the inmate who is granted parole will receive supervision from a parole officer. Upon release from the institution, the parolee will receive instructions about where and when to report to the parole officer. Unless a waiver is received from the Commission in writing, parolees are to report to their designated parole officer within twenty-four (24) hours of release to an Idaho plan, or seventy-two (72) hours to an out-of-state plan.
 3. Every inmate supervised in the State of Idaho will be assigned to Class A parole supervision status. A parolee with this status is carried on the case load of a parole officer and reports to that officer as instructed. There are three levels of supervision, ranging from frequent personal interviews to infrequent reporting by mail. The parolee's level of supervision will be determined by the parole officer and/or the District Manager of that parole district.

4. An inmate granted a parole to an out-of-state plan will normally be assigned Class A parole supervision status. The degree of supervision will be determined by the policies of the parole division of that state.
 - a. A parolee who is receiving Class A supervision in another state is to follow the procedures prescribed by the parole division in that state.
5. In very unusual circumstances an inmate granted a parole to an out-of-state plan may be placed on Class B parole supervision status (formerly called "unsupervised parole"). An inmate who is granted Class B status is given a set of monthly report forms upon leaving the institution. These are to be filled out at the beginning of each month and sent to the Executive Secretary of the Commission. Any change of address is to be reported immediately to the Executive Secretary. During the time on parole, the Executive Secretary will, on a random basis, request a report from the National Criminal Identification Center to determine if there have been any unreported arrests.
 - a. A parolee who is serving parole outside of Idaho on Class B status and then returns to Idaho must report to the parole office nearest his/her place of Idaho residence or temporary lodging within seventy-two (72) hours. If permanent residence in Idaho is intended, the parolee will be placed on Class A status and a parole officer will be assigned.
6. Whenever any person committed to the custody of the State Board of Corrections shall have been granted a parole, it shall be the duty of the Records Office to transmit a copy of the parole agreement and information as to the parolee's place of residence to the Prosecuting Attorney of the appropriate county.

IV. Discharge from Supervision

- A. The Idaho Code specifies that an inmate released on parole will remain on parole for a minimum of one year, except that he cannot be kept under the custody of the Board of Corrections beyond his statutory release date.
1. At the end of one year, the supervising parole officer may recommend to the Commission either that the period of parole supervision be extended or the parolee be discharged.
 2. An inmate paroled from a sentence for a crime specified in Idaho Code 20-223 will be required to serve a minimum period of time on parole equal to one-third (1/3) of the time remaining until the maximum expiration date, or five (5) years, whichever is the least, before being eligible for a final discharge from custody. At the end of the minimum period of parole supervision, the supervising parole officer may recommend to the Commission either that a final discharge from custody be granted, or that the period of parole supervision be extended.
 3. A parolee on Class B parole may, without a parole officer's recommendation, request discharge from supervision according to the above guidelines.
 4. A parolee's statutory release date is the maximum full-term expiration date minus the good time accumulated during incarceration.

PART TWO - PARDON AND COMMUTATION

The Commission meets on designated dates in January, April, July and October to consider applications for pardon and applications for commutation of sentence.

I. Pardon

A pardon may be granted to persons who have been convicted of a crime as defined under Idaho Statute and who are able to demonstrate successful citizenship within a community, and who can demonstrate the need or advantages that a pardon will have for them. The following policies will apply:

- A. In the absence of some unusual and compelling reason warranting a reduction of the time period, the Commission will not consider a pardon application until the applicant has demonstrated a minimum of three years of successful citizenship in the community after release from the legal custody of the Idaho Department of Corrections. An applicant who was convicted of a crime of violence or crime against the person must demonstrate a minimum of five years of successful citizenship in the community after release from the legal custody of the Idaho Department of Corrections.
- B. Upon receiving a pardon application which meets the time requirements specified above, the Commission will:
 1. Instruct the applicant to provide letters of recommendation from responsible community leaders.
 2. Request, in writing, from the parole agency within whose bounds the applicant lives, an investigation to provide data pertaining to his law-abiding behavior.
 3. Request the appropriate law enforcement agency to conduct a review of central records which would reveal any recorded law violations which may have occurred since his release from custody.
- C. When all data have been received, the applicant will be notified as to the date and place of the next meeting of the Commission. It is not mandatory that a pardon applicant appear before the Commission for a formal interview. However, if there are ambiguities or inconsistencies in the data which the Commission believes would be clarified if the applicant were to be questioned, he may be asked to appear at a succeeding meeting of the Commission.

II. Commutation of Sentence

The clemency powers which are granted to the Commission for Pardons and Parole by the Constitution enable the Commission to commute sentences either by reducing the time of maximum sentence or otherwise modifying conditions imposed by the sentencing jurisdiction.

There are two steps in the process of applying for a commutation of sentence. The first step is the petition, and the second is the hearing.

A. The Petition

1. A petition for commutation of sentence should be on a form supplied by the Commission and include the reasons why the inmate believes the circumstances are so extraordinary that the Commission should consider commuting his sentence.

Commutation must be requested in writing by the inmate himself and the petition signed by the inmate; however, the Commission reserves the right to consider a commutation absent petition by the inmate where the Commission feels circumstances warrant such action.

2. The Commission will read and consider commutation petitions at its January, April, July and October meetings. Within one month thereafter the petitioner will be notified by mail of the Commission's decision whether to deny or grant a hearing on the petition; however, in any particular instance, the Commission may postpone a petition for any length of time pending accumulation of additional information. If the petition is approved, the petitioner will be notified of the month the commutation hearing will be held. The mere granting of a hearing on a petition should not be interpreted as an intent of the Commission to commute a sentence.
3. Petitions must be received in the Commission's office no later than the first of the month it is to be considered. Petitions received after the first of the month will be held for review by the next full Commission month, (January, April, July or October).
4. Inmates may not submit more than one petition in any 12-month period. In the absence of extraordinary circumstances, a petition may not be submitted until an inmate has served at least one year of the sentence in the institution or a similar institution to which he might have been transferred from this institution.
5. The petition may include written representations on behalf of the petitioner. The petition will be considered by the Commission without a hearing.
6. It is the belief of the Commission that only very rarely will a set of circumstances be extraordinary enough for the Commission to approve a petition. It is impossible for the Commission to specify with any precision what these circumstances might be. Additional information provided by district court officers, or an unusual contribution by the inmate to the maintenance of order in the Correctional Institution could be regarded favorably. Rehabilitative progress by itself will not generally be regarded as sufficient to justify the approval of a petition.
7. It is suggested, but not required, that all petitions be submitted through the counselor as it is a complex document and their guidance may be beneficial.

B. The Hearing

1. When a petition for a commutation hearing is approved, the hearing shall be scheduled for the next full Commission meeting (January, April, July, or October).
2. Policies and procedures governing the conduct of a parole hearing will apply to commutation hearings.

C. Fixed Term and Mandatory Minimum Sentences

1. It is the general policy of the Commission that fixed term or mandatory minimum sentences will not be commuted absent acquiescence or stated lack of objection by the sentencing judge or court. If a petition for commutation of a fixed term or mandatory minimum sentence is approved for a hearing, the Commission will notify said court that commutation will not be granted unless acquiescence or lack of objection is received in writing from the court.

PART THREE - PAROLE REVOCATION

I. The Official Notification

- A. When it appears to the supervising parole officer that a parolee is in violation of his parole, a Report of Violation will be prepared and submitted to the Commission. If, after examining the facts reported in the Report of Violation, it is believed that such action is indicated, a Warrant of Arrest will be issued.
- B. If, following the receipt of a Report of Violation, the Commission issues a Warrant of Arrest, the parolee's final release date is suspended and he is regarded as a fugitive from justice.
- C. If the alleged violator has absconded from supervision, or otherwise has become a fugitive, the Warrant for his arrest may be reported to the National Criminal Identification Center.
- D. Within fifteen (15) calendar days following his arrest and detention on a Commission Warrant, a parole officer, law enforcement official or representative of the Commission will deliver to the alleged violator a copy of the Report of Violation. At this same time the parole officer will explain the Commission's policy, and will present forms on which the parolee will indicate which rights he wishes to waive, and those he wishes to exercise.
- E. A parolee who is alleged to have violated his parole will normally, upon return to the Idaho State Correctional Institution, be given a hearing before the Commission at its next regular meeting.

II. The Preliminary Hearing

- A. Every parolee who is arrested on a Commission Warrant and charged with a violation of his parole on some ground other than a conviction for a new crime or by having absconded, may receive a Preliminary Hearing to determine if there is probable cause to believe that an act which would constitute a violation of the parole agreement has been committed.
- B. In the case of a parolee alleged to have violated parole by being convicted of a new crime or by having absconded, probable cause is established with the Judgment of Conviction or by the parolee's absence from his/her proper place of supervision and no Preliminary Hearing need be held.
- C. The Preliminary Hearing will ordinarily be conducted by a parole officer, in the vicinity, who has not been directly involved with the supervision of the alleged violator.
- D. At the Preliminary Hearing the parolee may, with reference to the facts of the alleged violation:
 1. Be represented by an attorney at the parolee's expense.
 2. Appear and speak in his own behalf.
 3. Bring letters, documents, or individuals who can give relevant information to the hearing officer;

4. Question persons who have given adverse information on which parole violation allegations are based unless the hearing officer determines that the identification of such informant would subject the informant to risk of harm.
- E. If, at the Preliminary Hearing, the hearing officer concludes that there is probable cause to believe that the parolee is in violation of the parole agreement, the Commission shall immediately be informed of that decision and of the reasons for the determination and the evidence relied on. If probable cause is not established, the parole is reinstated without penalty.
- F. The hearing officer, at the Preliminary Hearing, will make a tape recording of the entire proceeding. At the conclusion of the hearing he/she will prepare a written summary of the proceedings, including the statement specified in the paragraph above. These, along with any documents presented in evidence, shall be sent to the Commission.
- G. An alleged parole violator may waive his right to a Preliminary Hearing. Following such waiver, a hearing will be scheduled before the Commission at the Idaho State Correctional Institution; or an On-Site Parole Revocation Hearing may be requested if the parolee is eligible under Idaho Code 20-229A.
- H. When a parolee serving his parole in another state is arrested on a Commission Warrant in that state and a Preliminary Hearing is requested, the Commission may make one of the following provisions for that Preliminary Hearing:
 1. Request an officer of the parole agency in that state to conduct the Preliminary Hearing;
 2. Request that an officer sent by Idaho's Division of Probation and Parole conduct the Preliminary Hearing at the place of arrest.

II. The On-Site Parole Revocation Hearing

- A. The Idaho Code provides that a parolee who is alleged to have violated his parole on grounds other than a conviction for a new crime or absconding supervision, may request that a revocation hearing be held reasonably near the site of the alleged violation.
- B. The On-Site Hearing will be held within thirty (30) days from the time that the alleged violator is served with the Report of Violation following his arrest and detention.
- C. When an alleged parole violator requests an On-Site Parole Revocation Hearing, the Executive Secretary, or the chairman of the Commission, will determine the place of the hearing. If more than one violation is charged, the hearing is to be near the place of violation chiefly relied upon as the basis for issuance of the Commission's Warrant. The Executive Secretary will advise the alleged violator of the time and place of the hearing. If necessary, the parole staff in that district will transport the alleged violator to the place of the hearing.
- D. Ordinarily the On-Site Parole Revocation Hearing will be conducted by a Commissioner, or the Commission's appointed hearing officer.

- E. At the On-Site Parole Revocation Hearing, the decision will be rendered within twenty (20) days of the date of the On-Site Hearing.
- F. The On-Site Parole Revocation Hearing will be recorded or reported. The transcript of the hearing will ordinarily be retained for only six (6) months.
- G. Where the alleged violation took place in another state, and the designated hearing officer finds probable cause, the parolee may request that an On-Site Parole Revocation Hearing be conducted. This request must be accompanied by a letter from the alleged violator stating why he believes that an On-Site Parole Revocation Hearing is warranted. The decision whether to grant an On-Site hearing will be at the discretion of the Commission.
- H. The rules as stated below (B, C, D) apply also to the On-Site Parole Revocation Hearing.

IV. The Parole Revocation Hearing

- A. If an alleged parole violator is not eligible for an On-Site Parole Revocation Hearing, or if he waives that right, he will be returned to the correctional institution as soon as practicable for a Parole Revocation Hearing before the Commission at its monthly meeting. Unless the alleged violator requests a continuance, as specified below, the period of time between his receipt of the Report of Violation and the Parole Revocation Hearing at the correctional institution will not exceed forty-five (45) days.
- B. A parolee whose Parole Revocation Hearing is being conducted by a Commissioner, or the Commission's appointed hearing officer, at an On-Site Parole Revocation Hearing, or by the Commission at the correctional institution, will be given the opportunity to present witnesses and documentary evidence relating to the alleged parole violation. If the alleged violator desires witnesses, the hearing will be postponed for a reasonable time for the purpose of obtaining witnesses. Any witness presented by the alleged violator must be approved by the hearing officer to assure that the witness will present information actually pertaining to the allegations or mitigation. Witnesses, when not giving testimony, will ordinarily be excluded.
- C. If the alleged violator desires to be represented by an attorney, it must be at the parolee's expense except under the following circumstances: if the alleged violator presents proof of indigency; and (a) there is a timely and colorable claim that the alleged violation of the conditions of parole was not committed; or (b) there is a timely and colorable claim that, although there has been a violation of the parole agreement, there are substantial reasons which justified or mitigated the violation and make revocation inappropriate, and that the reasons are complex or otherwise difficult to develop or present. If the Commissioner, or the Commission, believes that it is warranted within the above criteria, an attorney will be provided for the alleged violator at state expense; and the Parole Revocation Hearing will be delayed for a reasonable time to allow the alleged violator to obtain counsel. If the request for counsel is refused, the grounds for refusal will be stated for the record.
- D. A Parole Revocation Hearing is not a strict judicial procedure. It is a process flexible enough to consider evidence not normally admissible in an

adversary criminal trial. Furthermore, it is not required that the alleged violation be proven beyond a reasonable doubt; rather, if there is a preponderance of evidence that parole has been violated, the Commissioner or Commission conducting the hearing may so rule.

- E. Persons serving a parole granted by the Idaho Commission for Pardons and Parole who are convicted of an offense in another state and who are serving a sentence in that other state may receive a Parole Revocation Hearing in absentia.

Appendix 1

Idaho Code 20-223. Parole, rules and regulations governing - Restrictions - Psychiatric or psychological examination.

"The Commission shall have the power to establish rules, regulations, policies or procedures in compliance with chapter 52, title 67, Idaho Code, under which any prisoner, excepting any under sentence of death, may be allowed to go upon parole but to remain while on parole in the legal custody and under the control of the board and subject to be taken back into confinement at the direction of the commission; provided, however, that no person serving a life sentence or serving a term of thirty (30) or more years shall be eligible for release on parole until he has served at least ten (10) years and no person serving a lesser sentence for any of the following crimes; homicide in any degree, treason, rape by force or threat of bodily harm, incest, crime against nature, committing a lewd act upon a child, robbery of any kind, kidnapping, burglary when armed with a dangerous weapon, or with an attempt or assault with intent to commit any of said crimes, or as an habitual offender, shall be eligible for release on parole until said person has served a period of five (5) years or one-third (1/3) of the sentence, whichever is the least. The provisions of this section shall affect only those persons who are sentenced on or after the first day of July, 1980, and are not intended to repeal or amend sections 19-2513A, 19-2520A, Idaho Code.

"No person serving a sentence for rape, incest, committing a lewd act upon a child, crime against nature, or with an intent or an assault with intent to commit any of the said crimes or whose history and conduct indicate to the commission that he is a sexually dangerous person, shall be released on parole except upon the examination and evaluation of one or more psychiatrists or psychologists to be selected by the commission and such evaluation shall be duly considered by the commission in making its parole determination. The commission may, in its discretion, likewise require a similar examination and evaluation for persons serving sentences for crimes other than those above enumerated. No psychiatrist or psychologist making such evaluation shall be held financially responsible to any person for denial of parole by the commission or for the results of the future acts of such person if he be granted parole.

"Before considering the parole of any prisoner, the commission shall afford the prisoner the opportunity to be interviewed. A parole shall be ordered only for the best interests of society, not as a reward of clemency and it shall not be considered to be a reduction of sentence or a pardon. A prisoner shall be placed on parole only when arrangements have been made for his employment or maintenance and care, and when the commission believes the prisoner is able and willing to fulfill the obligations of a law-abiding citizen. The commission may also by its rules, regulations, policies or procedures fix the times and conditions under which any application denied may be reconsidered." (I.C., 20-223, as added by 1980, ch. 297, § 6, p. 768).

Appendix 2

Idaho Code 19-2520. Sentence for use of firearm or deadly weapon.

"Any person convicted of a violation of sections 18-905 (aggravated assault defined), 18-907 (aggravated battery defined), 18-909 (assault with intent to commit a serious felony defined), 18-911 (battery with intent to commit a serious felony defined), 18-1401 (burglary defined), 18-2501 (rescuing prisoners), 18-2505 (escape by one charged with or convicted of a felony), 18-2506 (escape by one charged with or convicted of a misdemeanor), 18-2703 (resisting officers), 18-4003 (degrees of murder), 18-4006 (manslaughter), 18-4015 (assault with intent to murder), 18-4501 (kidnapping defined), 18-4604 (grand larceny defined), 18-5001 (mayhem defined), 18-6101 (rape defined), or 18-6501 (robbery defined), Idaho Code, who displayed, used, threatened, or attempted to use a firearm or other deadly weapon while committing the crime, shall, in addition to the sentence imposed for the commission of the crime, be imprisoned in the state prison for not less than three (3) nor more than fifteen (15) years. Such additional sentence shall run consecutively to any other sentence imposed for the above cited crimes.

"For the purposes of this section, 'firearm' means any deadly weapon capable of ejecting or propelling one or more projectiles by the action of any explosive or combustible propellant, and includes unloaded firearms and firearms which are inoperable but which can readily be rendered operable.

"The additional terms provided in this section shall not be imposed unless the fact of displaying, using, threatening, or attempting to use a firearm or other deadly weapon while committing the crime is separately charged in the information or indictment and admitted by the accused or found to be true by the trier of fact at the trial of the substantive crime; provided, however, that the prosecutor shall give notice to the defendant of intent to seek an enhanced penalty at or before the preliminary hearing or before a waiver of the preliminary hearing, if any.

"This section shall apply even in those cases where the use of a firearm is an element of the offense." (I.C., 19-2520, as added by 1977, ch. 10, 1, p. 20; am. 1980, ch. 296, 1, p. 767; am. 1983, ch. 183, 1, p. 496.)

Appendix 3

19-2513A. Alternative fixed term sentence.

"As an alternative to an indeterminate sentence for any person convicted of a felony, the court, in its discretion, may sentence the offender to the custody of the state board of correction for a fixed period of time of not less than two (2) years and not more than the maximum provided by law for said felony. [I.C. § 19-2513A, as added by 1977, ch. 243, § 1, p. 720.]"

Appendix 4

20-213. Meetings as state commission of pardons and paroles - Notice, publication, contents.

"The commission shall meet at such times and places as it may prescribe, but not less than quarterly. If applications for pardon or commutation are scheduled to be considered at such meeting, notice shall be published in some newspaper of general circulation at Boise, Idaho, at least once a week for four (4) consecutive weeks, immediately prior thereto. Such notices shall list the names of all persons making application for pardon or commutation and a copy of such notice shall immediately, upon the first publication thereof, be mailed to each prosecuting attorney of any county from which any such person was committed to the penitentiary, and provided further that the commission may in its discretion consider but one (1) application for pardon or commutation from any one (1) person in any twelve (12) month period." [1947, ch 53, § 13, p. 59; am. 1951, ch. 118 § 1, p. 273; am. 1969, ch. 419, § 2, p. 1160; am. 1980, ch. 297, § 1, p. 768.]

V. FACILITIES MANAGEMENT

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	SUBJECT: Use of Telephones by Inmates	

Policy of the Department

The Administrator of each institution shall formulate the rules and procedures for inmate use of telephones.

Procedure

1. Each institution Administrator shall formulate rules and procedures governing the frequency, length, and permitted hours for inmate telephone calls.
2. All inmate telephone calls, whether personal or business, outside or intra-institutional, may be monitored unless involving legal business between attorney and client.
3. Inmate initiated calls must be placed collect.

(c) - telephone use

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Policy of the Department

It is the policy of the Idaho Board of Correction that the Department of Correction will provide supportive services to inmates in an equitable and fair manner. Service are important in the care and treatment of inmates and can assist in the rehabilita tive process.

Reference

Standards for Adult correctional Institutions, Second Edition. Standards 2-4022, 2-4226, 2-4338, 2-4369, and 2-4370 thru 2-4378.

Pell v. Procunier, 417 U.S. 817 (1974).

Bell v. Wolfish, 441, U.S. 520, 528, n.9, 99 S. Ct. 1861, 1868, n.9, 60 L. Ed. 2d 447 (1979).

Procunier v. Martinez, 416 U.S. 396, 413, 94 S. Ct. 1800, 1811, 40 L. Ed. 2d 224 (1974).

Miller v. California, 392 U.S. 616 (1968); 413 U.S. 15 (1973).

Starseth v. Spellman, 354 F.2d 1349 (1981).

Definitions

1. "General Correspondence" means incoming or outgoing correspondence other than "privileged mail." This also includes packages sent through the mail.
2. "Privileged Mail" means correspondence sent to or received from individuals identified in 2.B.(1) pages 6 and 7.
3. "Contraband" is defined as items in the following categories as well as any other items prohibited by Departmental policy or by federal or state statutes:
 - A. Items, including money, concealed in letters, cards or packages that are not readily seen by the mail handler.
 - B. Items not allowed per the Department's Personal Property Regulations.
 - C. Items other than those identified as "authorized items" below.
 - D. A package received without prior authorization.

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- E. Cards containing musical devices which must be damaged to be inspected properly
- 4. "Authorized Items" are defined as those items allowed to come in through the mail excluding packages. They are as follows:
 - A. Postage Stamps (limited to 20) and cash - The Department assumes no responsibility for these items.
 - B. Pictures - except those instant photos with layers.
 - C. Money orders or cashier's checks (no personal or two-party checks).

Procedures

Inmate mail privileges are an important factor in successful inmate adjustment to institutional life. It is important that each inmate be allowed to communicate with family and friends, and have the opportunity to benefit from information, ideas, and concepts originating outside the institution. Individuals violating this policy may be subject to disciplinary action. Individuals tampering with or in any way violating federal postal regulations may be subject to federal prosecution. Inmate mail regulations and procedures for processing inmate mail are as follows:

1. Mail Regulations

- A. Each inmate will be allowed unrestricted correspondence privileges in accordance with the guidelines presented below. Should the inmate violate or disregard these guidelines, he/she may be placed on a restricted correspondence list.
- B. Guidelines for Inmate Correspondence.
 - (1) Zip codes and the inmate's name, number and correctional facility address must appear on all outgoing mail. If the sender can be identified, but the return address is incomplete or inappropriate, the mail will be returned to the sender for proper addressing. If the sender cannot be identified in the return address, the mail will be destroyed.
 - (2) Inmates are prohibited from including anything of a threatening nature, contraband and/or anything that indicates plans for escape or illegal activity in their correspondence.
 - (3) Inmates are prohibited from directing business operations and from engaging in business correspondence except that necessary to protect their property or close out a business.

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- (4) Inmates may not solicit or accept any publication which has not been paid for in advance, or order any material, the order of which is contingent upon future orders. All orders for publications shall be made directly to the publisher of the material, or to a legitimate book store.
- (5) Correspondence with inmates in other correctional facilities is permitted if the persons are immediate family members, i.e. spouse, natural or surrogate parents, their children or siblings. Inmates may correspond with inmate law clerks for assistance with legal research. Such correspondence shall be considered non-privileged.
- (6) All other correspondence between inmate to inmate or inmate to probationer/parolee will be allowed only with the permission of both of the facility heads or the facility head and the field service manager. This correspondence must be sent unsealed. Permission will normally be granted; however, any denial may be grieved through the Department's grievance procedure.
- (7) Photographs may not be included in outgoing correspondence unless approved by the facility head or designee.
- (8) No inmate will be permitted to receive compensation or anything of value for material submitted to the news media.

C. Restricted Correspondence List

- (1) If an inmate violates or abuses mail guidelines or it is determined that the inmate's correspondence may be a threat to the community or institutional security, his name may be placed on the restricted correspondence list by the facility head upon the issuance of a disciplinary offense report and a finding of guilty.
- (2) The restricted correspondence list for each facility will be reviewed by the facility head on a monthly basis. All incoming and outgoing mail will be reviewed until the inmate is released from the restricted correspondence list by the facility head. Each facility shall establish procedures for the review of restricted mail. Inmates will be notified in writing when it is determined that the conditions which originally placed him/her on the restricted correspondence list no longer exist.

D. Inmates on restrictive housing status have the same correspondence privileges as other inmates.

E. Inmates without sufficient funds for postage in their trust fund account will be provided paid postage for one letter per week. Mail addressed to courts or

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attorneys of record will be sent for inmates with no funds on their trust fund. This will be in addition to the one free letter.

F. Soft or hard bound books and magazines may be received directly from a publisher or a legitimate bookstore only.

G. All books, magazines, photographs and other publications which are received in the inmate mail will be examined to determine whether they would present a clear and present danger to institutional order, security, discipline or to the rehabilitative progress of the addressee or is obscene. Questionable publications shall be delivered to the facility head or his/her designee.

The facility head or designee shall review the publication and determine whether the publication presents a clear and present danger to institutional order, security, discipline or the rehabilitative progress of the addressee or is obscene.

(1) If the facility head or designee determines that the publication should not be withheld, he/she will forward it to the inmate within 24 hours of receipt from the mail room.

(2) Should the facility head or designee determine that the material should be withheld, he/she will notify the inmate in writing within 24 hours that it is being withheld.

(3) This written notice shall contain a brief description of the material in question along with a brief statement of the facility head's or designee's reasons for recommending that the publication be rejected.

H. The Department does not allow into correctional facilities any obscene material -- magazines, books, photos, movies, cassettes, etc. Specifically, any material which contains a visual, oral or written depiction of any actual physical contact with the sexual organs of a person or persons by another person or persons will be withheld from the inmate population.

The Department, further, reserves the right to withhold from the inmate population non-obscene materials -- magazines, books, photos, movies, cassettes, etc., which, in the conclusion of the Department, present a risk of adverse impact on the security or rehabilitative goals of the state correctional facilities. Such materials would include, but not necessarily be limited to, materials which

(1) describe how to build or obtain weapons of any kind;

(2) describe how to manufacture or obtain any drugs or intoxicants;

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- (3) describe plans of escape or how to plan or execute an escape;
- (4) describe or show actual physical contact with the sexual organs of person by another person or persons.
- (5) glorify or encourage criminal acts, drug usage, illicit sexual acts violence, insurrection, disobedience, riot or escape.

I. Any inmate who violates U.S. Postal Regulations or Departmental mail regulations will be subject to prosecution or disciplinary action by appropriate authorities.

2. Procedures for Processing Mail

A. General Mail

- (1) All outgoing mail sent by inmates that is not privileged, is subject to being opened, inspected and read for enforcement of inmate correspondence guidelines and institutional security where reasonable belief exists that said mail may present a danger to the orderly running of the institution

Should mail be found to violate inmate correspondence guidelines, a disciplinary offense report shall be issued and a hearing held to determine the inmate's guilt or innocence. If found guilty, the inmate may then be placed on the restricted correspondence list.

- (2) All incoming general mail and packages that are not privileged will be opened, inspected for contraband and may be read for enforcement of inmate correspondence guidelines and institutional security. Should mail be found to violate inmate correspondence guidelines a department offense report shall be issued and a hearing held to determine the inmate's guilt or innocence. If found guilty, the inmate may then be placed on the restricted correspondence list.

- (a) Packages will not be allowed except at specified periods of the year as announced by the facility head.

- (b) Unauthorized items of value must be returned to the sender at the inmate's expense within 45 days or the items will be donated to a charitable organization. The inmate will be given a receipt for any contraband seized with an explanation of why the item was seized. It shall be the inmate's responsibility to notify the sender.

- (c) When contraband is seized and it appears there has been an intentional

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violation of state or federal laws or departmental regulations to contraband, along with information regarding the sender and addressee shall be used as evidence. In these cases, the inmate will not be given a receipt for the contraband.

- (d) Any cash, money orders, or cashier's checks found in inmate mail shall be credited to the inmate's trust fund account, with a receipt to the inmate. It shall be the inmate's responsibility to notify the sender that money was received. Money or other forms of exchange that are concealed and not readily seen by the mail handler will be considered contraband and will be confiscated. Money shall be receipted and submitted to Correctional Industries for deposit to the Correctional Industries Betterment Account.
 - (e) Incoming mail with stickers, stamps or other articles affixed, other than postage stamps, that can be used to conceal drugs/contraband will be refused and returned to the sender.
- (3) Incoming mail will be delivered per the following:
- (a) First class - processed within 24 hours of receipt.
 - (b) Second class (newspapers) - processed within 24 hours of receipt.
 - (c) Magazines and third class (circulars, booklets, catalogs) - will be processed when time permits but in no case will they be held longer than 48 hours from time of receipt.
- (4) Incoming and outgoing mail will be processed Monday through Friday, excluding legal holidays and weekends.

B. Privileged Mail

- (1) The following are considered privileged correspondence sources:
- (a) President
 - (b) Governor
 - (c) Attorney General - State and Federal
 - (d) Members of the Legislature and Congress.
 - (e) Courts

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- (f) Attorneys of Record, or those in official attorney-client relationships (name and address of the attorney must be on the envelope)
 - (g) Legal Assistance Agencies
 - (h) Board of Correction Members
 - (i) Parole Authorities
 - (j) Director of the Department of Corrections
 - (k) Facility Heads
 - (l) Civil Rights Division of the Department of Justice
- (2) All outgoing mail to privileged correspondents will be sealed in envelopes. A notation must be made on the envelope that the mail is "privileged". The name of the inmate, addressee and date sent shall be logged.
 - (3) Incoming privileged mail will be logged by the mail handler indicating the name of the sender, the inmate and date received and opened only in the presence of the inmate. It should be clearly marked "privileged or legal mail" to avoid accidental opening.
 - (a) Should privileged mail be opened accidentally, it should be resealed with tape and a notation made on the envelope, "opened in error, initialed by the mail handler and logged.
 - (b) Privileged mail will be distributed by individuals designated by each facility's procedure who will open the mail only in the presence of the inmate to check for contraband and/or money. Money and contraband shall be submitted to the mail handler for proper receipting and/or handling. Contraband will be seized and forwarded for appropriate handling.
 - (4) Inmate law clerks may not send privileged mail out for other inmates under the law clerk's name. If work is being done by law clerks for other inmates and the work must be mailed out, the envelope must clearly identify in the return address for whom the work was done not by whom it was done. If the inmate has funds, he will then be required to sign a draw slip for postage before material will be mailed.

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C. Forwarding Mail

All institutions and community work centers should keep on file the forwarding address of inmates released or transferred to another institution or CWC. It is the inmate's responsibility to notify the facility mail handler and/or the U. S. Post Office of their forwarding address.

- (1) First class mail and packages that are not forwardable shall be returned to sender. All other mail shall be returned to the Post Office.
3. Inmates may use the department's grievance process to appeal any actions relating to mail regulations and processing. Actions are grievable only where there has been a violation of policy and procedure.
4. Any exceptions to this operations memorandum shall require written approval from the Director.

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	SUBJECT: EFFECTIVE: 11-15-83 CONTROL OF INMATE PERSONAL PROPERTY	

Policy of the Department of Corrections: It is the policy of the Idaho Board of Correction to provide to facility heads and inmates a comprehensive list of personal property authorized for each custody level within Idaho correctional facilities. (See Attachment A)

Discussion: Prior to the issuance of this Policy and Procedure there were no uniform statewide guidelines or standards for the amount of inmate personal and legal property. Institutional overcrowding, fire hazards, security problems, and sanitation issues underlie the requirement that system-wide guidelines be established to assist in the management of inmate personal and legal property in living quarters and elsewhere in the Institution. The intent of this Policy and Procedure is to insure equal treatment of personal property in all Idaho facilities. At the same time these guidelines will assist in providing a safe environment for staff and inmates.

Reference: American Correctional Association Adult Correctional Institutions', 2nd Edition 2-4261.

Procedures: 1. Limits of Inmate Personal Property.

- a. The Idaho Department of Corrections will develop a list of authorized items that an inmate may possess. This list will be available in all living areas and provided to inmates upon their initial assignment to a facility.
- b. The facility will establish storage areas as needed for storage of inmate personal property. The amount of personal property allowed each inmate will be limited to those items which can be neatly and safely stored. Under no circumstances will any materials referred to in this Policy and Procedure be accumulated to the point where they become a fire, sanitation, security or housekeeping hazard.

2. Legal Materials

Inmates will be allowed to maintain legal materials necessary for their legal actions. The allowable amount of legal material is two (2) cubic feet.

3. Personal Mail

The Department will limit personal mail to two (2) cubic feet.

4. Hobbycraft Materials

The facility shall develop procedures dealing with arts and crafts projects and the storage of such if such programs are permitted. If

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the facility permits storage of hobbycraft items in the cell living area, it shall be stored in such a way that they are secure and do not present a fire, sanitation, security or housekeeping hazard. Flammable and toxic materials are prohibited in the housing areas.

5. Inmate Transfer Between Institutions

When an inmate is transferred between institutions all personal effects and property including legal material will be inventoried. Allowable property will be transferred with the inmate when he/she is reassigned. The sending facility is responsible for disposing of all property not allowed at reassigned facility or new custody level. Personal property will be held for thirty (30) days and then if not claimed it will be declared abandoned property. Contraband or abandoned property will be stored for six (6) months and then destroyed or turned over to the State. It is the inmate's responsibility to dispose of personal property that is not allowed.

6. Lost or Stolen Property

All inmates must report in writing within seventy-two (72) hours the loss or theft of property.

7. Escapes

- a. All the property of the escaped inmate will be inventoried by the officer on duty at the time of the escape.
- b. The escaped inmate's personal property will be considered abandoned. Abandoned property will be considered contraband.

8. Commissary

No direct mail order or catalog purchases are allowed by inmates. Outside vendors are prohibited.

Action: The Department will develop a list of authorized items permitted in facilities. This information will be available in the facilities' rules and regulations, so that the inmates and staff can be familiar with the procedures. Additionally, the orientation program at the RDU center will address the question of inmate personal and legal property. Inmates are prohibited from lending or borrowing others' personal property. Lent or borrowed property will be considered contraband to both parties. Transfer of personal property between inmates is prohibited.

ATTACHMENT A

CUSTODY LEVEL

			DETENTION/IN TRANSIT									
			RDU ENTRY									
			ADMINISTRATIVE SEGREGATION									
			DEATH ROW									
			MAXIMUM									
			CLOSE									
			MEDIUM									
			MINIMUM									
			COMMUNITY									
ITEM	SEX											
	F	M										
1. State may issue (1 pair of shoes or boots, 3 shirts, 3 pair of pants, 3 sets of underwear, 2 sheets, 2 blankets, 1 pillow case)	X	X							X	X	X	
2. One (1) Wedding Band	X	X	X	X	X	X	X	X	X	X	X	X
3. One (1) Religious Medallion & Chain	X	X	X	X	X	X	X	X	X	X	X	X
4. Protheses as prescribed	X	X	X	X	X	X	X	X	X	X	X	X
5. Mail Received While on Detention	X	X	X									
6. Two (2) Cubic Feet of Legal Material	X	X	X	X	X	X	X	X	X	X	X	X
7. One (1) Religious Book	X	X	X	X	X	X	X	X	X	X	X	X
8. One (1) Non-Religious Book	X	X	X									
9. Prescription Glasses	X	X	X	X	X	X	X	X	X	X	X	X
10. Five (5) Pictures No Larger Than 5" X 8"	X	X	X									
11. Six (6) Cubic Feet of Personal and legal property excluding TVs, radios, fans and guitars where authorized.	X	X			X	X	X	X	X	X	X	
12. One (1) Pair of Boots or Shoes	X	X	X	X	X	X	X	X	X			
13. Twenty (20) Postage Stamps	X	X	X	X	X	X	X	X	X	X	X	
14. Shower Thonads	X	X	X	X	X	X	X	X	X	X	X	
15. Stationery*	X	X	X	X	X	X	X	X	X	X	X	
16. Wrist Watch not to Exceed \$35 in value*	X	X	X	X	X	X	X	X	X	X	X	
17. One (1) AM/FM Radio*	X	X	X	X	X	X	X	X	X	X	X	

* Institution inmates must purchase this item through the commissary.

ITEM	SEX	
	F	M
17. One (1) AM/FM Radio*	X	X
18. Non-Electric Curlers*	X	
19. Ten (10) Pictures No Larger Than 5" X 8"	X	X
20. Twenty (20) Pictures No Larger Than 5" X 8"	X	X
21. Ten (10) Books or Magazines	X	X
22. Two (2) Pair Thermal Winter Underwear WHERE ALLOWED:	X	X
23. One (1) Television Receiver, Solid State, 12" Screen, 60 Watt Maximum* WHERE ALLOWED:	X	X
24. One (1) Electric Fan* (13" Maximum and plastic blades)	X	X
25. Gym Clothes* (White or navy--1 pair of shorts, 1 top, 1 pair of shoes, 1 athletic supporter, 1 sweat suit)	X	X
26. One (1) Photo Album*	X	X
27. Ten (10) Personal Books	X	X
28. Ten (10) Personal Magazines	X	X
29. One (1) Set of Headphones*	X	X
30. One (1) Ceramic Coffee Mug* where allowed:	X	X
31. One (1) Approved Hobby Craft Project	X	X
32. One (1) Bathrobe*	X	X
33. One (1) Pair of Slippers*	X	X

[illegible]

* Institution inmates must purchase this item through the commissary

ITEM	SEX	
	F	M
34. One (1) Chess Set*	X	X
35. One (1) Deck Playing Cards*	X	X
36. Two (2) Jigsaw Puzzles*	X	X
37. One (1) Belt*	X	X
WHERE ALLOWED:		
38. One (1) Harmonica (8" Length Max)*	X	X
Where allowed:		
39. One (1) Guitar & Case (Non-Electric	X	X
With \$125 Maximum Value)*		
40. One (1) Ashtray*	X	X
41. One (1) Blanket*	X	X
42. One (1) Cribbage Set*	X	X
43. One (1) Throw Rug* 15 sq. ft. Max.	X	X
44. One (1) Sweater	X	X
45. Two (2) Pair of Boots or Shoes	X	X
46. One (1) Toilet Kit*	X	X
47. Five (5) Pair of Undershorts*		X
48. Five (5) Pair of Underpanties*	X	
49. Five (5) Undershirts*		X
50. Five (5) Bras*	X	
51. Five (5) Pair of Socks*	X	X
52. One (1) Wallet*	X	X
53. Two (2) Pillow Cases*	X	X
54. Two (2) Pair of Bed Sheets*	X	X
55. Two (2) Wash Cloths*	X	X

* Institution inmates must purchase this item through the commissary

ITEM	SEX	
	F	M
56. Two (2) Bath or Hand Towels*	X	X
57. One (1) Smoking Pipe*	X	X
58. One (1) Clipboard*	X	X
59. Six (6) Handkerchiefs*	X	X
60. Approved Job Essential Items	X	X
61. Two (2) Neck Ties or Scarves	X	X
62. One (1) Hair Blow Dryer*	X	X
63. One (1) Hair Curling Iron*	X	
64. One (1) Electric Iron*	X	X
65. One (1) Buckle Not to Exceed 2 1/2" X 3 1/2"*	X	X
66. Two (2) Casual or Dress Shirts		X
67. Two (2) Casual or Dress Blouses	X	
68. Two (2) Pair of Trousers		X
69. Two (2) Skirts or Pair of Slacks	X	
70. One (1) Heavy Winter Coat	X	X
71. One (1) Light Wind-Breaker*	X	X
72. One (1) Electric Razor*	X	X
WHERE ALLOWED:		
73. One (1) Digital Alarm Clock Radio*	X	X
74. Gym Clothes		

DETENTION IN TRANSIT				
ROU ENTRY				
ADMINISTRATIVE SEGREGATION				
DEATH ROW				
MAXIMUM				
CLOSE				
MEDIUM				
MINIMUM				
COMMUNITY				
			X	X
			X	X
			X	X
			X	X
			X	X
				X
				X
				X
			X	X
				X
			X	X
			X	X
			X	X
			X	X
			X	X
			X	X
				X

* Institution inmates must purchase this
item through the commissary

VI. INSTITUTIONAL PROGRAMS AND ACTIVITIES

DEPARTMENT OF CORRECTIONS	POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 604	PAGE NUMBER: 1 of 2
		SUBJECT: Visiting Inmates	

Policy of the Department

The Department encourages inmate communication with family, friends and relatives through visits to the institution.

Procedure

1. The following rules and procedures shall be observed by the institutions in the administration of visits.
 - a. A suitable area within the institution must be provided for inmate visitation. All visits shall be held in this area, except when authorization is granted by the Administrator.
 - b. Each inmate shall make a list of friends and relatives he wishes to visit, taking into consideration each institution's or facility's rules and regulations. Potential visitors shall be furnished copies of institutional visiting rules and regulations.
 1. Potential visitors who violate the regulations or refuse to be searched may result in cancellation of visiting privileges.
 2. Institutions shall conduct investigations to confirm that good reasons exist for approving visitations.
 3. Proposed visitors who are below a set age limit may not visit, unless they are members of the immediate family.
 - c. Regardless of any visiting list restrictions, visitation is permitted inmate's attorney of record or clergy, unless any clear abuse of this privilege has occurred or unless such a visit may prove dangerous or harmful to the security and order of the institutional facilities or to the rehabilitation of any inmate.

The institutional facilities and inmates may be visited at any time by members of the State Legislature, Judges of State and federal courts, the State Attorney General, or the Governor.

Those individuals requesting visits with an inmate who are not designated on the list shall be interviewed and identified by authorized personnel. If the requested visits conform to institutional and Departmental requirements, one (1) visit may be approved pending further investigation and approval of subsequent visits.

VI. INSTITUTIONAL PROGRAMS AND ACTIVITIES

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 604	PAGE NUMBER: 2 of 2
	SUBJECT: Visiting Inmates	

Ex-inmates are prohibited visitation unless approval is given by the institution's Administrator. Parolees and probationers must be approved by the Administrator and have written authorization from their supervising probation or parole officer prior to visitation.

d. Visitors in the institution shall:

1. Wear appropriate attire.
2. Not give or receive any written material, article or merchandise of any sort except in accordance with approved institutional or Departmental regulations.
3. Not be permitted to visit more than one (1) inmate at any one visitation time unless the visitor is a member of the immediate family of more than one inmate confined in the institution; other exceptions to this regulation are at the institutional Administrator's discretion.
4. Signed in prior to and after the visitation.
5. Be subject to search, photographing or fingerprinting.
6. Be restricted in visitation rights if institutional disturbances occur

e. Designated personnel shall be present during all visitations, and shall supervise visits to the extent appropriate to the nature and privacy of the relationship between the visitor and inmate.

III. INMATE MANAGEMENT

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 303	PAGE NUMBER: 1 of 2
	SUBJECT: Classification Levels of Custody	

Policy of the Department

The institutions and facilities will maintain classification procedures for assessing the needs of inmates to ensure their progression toward fulfillment of the Department's rehabilitative goal while protecting the community utilizing the least restrictive means possible.

Procedure

1. There are four levels of classification to which an inmate is assigned during his period of incarceration. At I.S.C.I., there are also degrees within each level. Each level and/or degree of custodial classification indicates the type of housing, the area of assignment or activity, and the kind of supervision for maintaining control of each inmate. The custody exercised over an inmate may be greater, but shall not be less, than that prescribed in the definition of the level of degree of custody.

- a. Close Custody applies to those inmates whose behavior and attitude, both past and present, indicate that active efforts will be made to escape and violence will be used in doing so. This classification may include inmates returned to the institution or entering I.S.C.I. for the first time.

Inmates will be placed in this classification status as they begin their individualized program. While in this status, an inmate must complete those tasks applicable to the status as predetermined and agreed upon by the inmate and the institution staff.

- b. Medium Custody applies to those inmates whose behavior and attitude, both past and present, indicate that they will not make active efforts to escape, but might escape if it were made easy, probably not using violence. Inmates in this status continue to work toward the completion of those goals previously established and agreed upon.

- c. Minimum Custody applies to those inmates whose behavior and attitude, both past and present, indicate that they are prepared to serve their sentence, unlikely to walk away from an open institution, and unlikely to use any type of violence in escape.

This status will apply to those inmates who are approaching satisfactory completion of their rehabilitation plan and to inmates considered ready and eligible for work release programs.

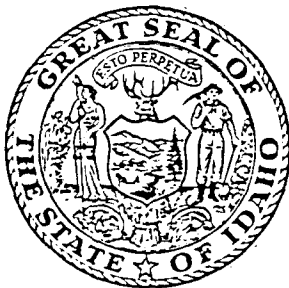
III. INMATE MANAGEMENT

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 303	PAGE NUMBER: 2 of 2
	SUBJECT: Classification Levels of Custody	

- d. Maximum Custody is a level of custody into which an inmate may be classified as the result of a determination that he presents a substantial risk to the security or order of the institution, the safety of himself/herself or others, and therefore, requires separation from the general institution population and strict supervision in a highly structured, controlled setting.

IDAHO
DEPARTMENT OF CORRECTIONS

USER MANUAL
FOR
INMATE CUSTODY CLASSIFICATION



April 1984

A. I. MURPHY
DIRECTOR

DEPARTMENT OF CORRECTIONS

USER MANUAL

FOR

INMATE CUSTODY CLASSIFICATION

This project was developed under Grant Number FK-4, awarded to the Idaho Department of Corrections, Boise, Idaho, by the U. S. Department of Justice, National Institute of Corrections, Washington, D. C.

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Effective Date April 1984

DEPARTMENT OF CORRECTIONS 	SECTION NUMBER: 318	PAGE NUMBER: 2 of 10
POLICY AND PROCEDURE MANUAL	SUBJECT: ADOPTED: 10-1-83 Disciplinary Procedures Including Levels of Allowable Punishments & Reporting Procedures	

B. Determining Reliability of Confidential Witnesses

1. If confidential witness testimony constitutes a portion of the investigative report, the investigating officer must prepare written evaluation of the witness' reliability and why they should remain confidential.
2. The testimony of confidential witnesses must be written or tape recorded and must state the facts as submitted by the witness or the investigator and the manner in which knowledge of those facts was acquired.
3. The evidence regarding reliability must be attached to the confidential witness' sealed testimony and submitted with the investigative report to the Hearing Officer.
4. Prior to opening and reviewing the confidential witness' sealed testimony, the Hearing Officer shall review the evidence as to the reliability of the confidential witness and determine whether they will consider the confidential testimony.
5. For the taped record, when the disciplinary hearing convenes, the hearing officer shall state that he will be considering confidential testimony. The hearing officer must give written reasons why and independently verify the credibility of the confidential and anonymous information.

C. Using Confidential Information

If confidential witness testimony is admitted in a disciplinary hearing, the anonymity of the confidential witness shall be maintained. When reviewing confidential testimony, the Hearing Officer shall have the inmate and representative leave the room during the period of deliberation and the tape recorder will be turned off. When the inmate and representative return to the room, the Hearing Officer shall read into the record a brief summary of the confidential testimony if doing so would not jeopardize the anonymity of the confidential witness.

D. Definition of Terms

1. Staff member. As used in this operations memorandum, staff member refers to any paid Department of Corrections' employee, volunteers, employees associated with any contract facility, vo-tech employees, and anyone else who works with inmates and is subject to be in a position to observe an inmate violating DOC rules.

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 318	PAGE NUMBER: 6 of 10
	SUBJECT: ADOPTED: 10-1-83 Disciplinary Procedures Including Levels of Allowable Punishments & Reporting Procedures	

3. Disciplinary Hearings

- a. The facility head, or designee, shall schedule the disciplinary hearing and shall forward all reports to the Hearing Officer. The Hearing Officer shall insure that the Disciplinary Hearing is held within seventy-two (72) hours (excluding weekends and holidays) of the inmate's receipt of a copy of the offense report. Disciplinary hearing postponement or continuance may be granted for a reasonable period of time for good cause; such as illness or unavailability of the inmate, need for further investigation of factual matters relevant to the hearing, or pending criminal court prosecution. Any delay in the conduct of this hearing shall be documented in writing and attached to the disciplinary action.

If the inmate waived his right to a full evidentiary hearing by the Disciplinary Hearing Officer, and no investigation is required, the Offense Report shall be forwarded directly to the Hearing Officer by the facility head or designee for disposition and imposition of sanctions. If, in the opinion of the facility head or designee, an investigation is warranted, it shall be conducted and the report must accompany the Offense Report.

- b. The disciplinary hearing shall be conducted by an impartial hearing officer, designated by the facility head or designee.
 - i. The Hearing Officer shall have satisfactorily completed a training program prescribed and approved by the Department.
 - ii. Any staff member who has direct involvement with the offense may not sit as Hearing Officer. The following activities constitute direct involvement:
 - aa. Witnessed the offense or circumstances directly related to the offense
 - bb. Wrote up the offense
 - cc. Investigated the offense
 - dd. Was the assigned shift supervisor when offense occurred
 - ee. Engaged in other similar activities which would compromise their ability to function objectively

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		SUBJECT: ADOPTED: 10-1-83 Disciplinary Procedures Including Levels of Allowable Punishments & Reporting Procedures	

- c. The inmate shall be present throughout the disciplinary hearing with the exception of the period of deliberation and when confidential information is presented.
 - i. Should the behavior of the inmate warrant removal from the disciplinary hearing, such removal shall be documented in writing.
 - ii. If the inmate refuses to attend the disciplinary hearing, it shall be noted and the hearing may proceed.
 - d. Excluding any period of deliberation, and per confidentiality guidelines, all A through C disciplinary hearings shall be tape recorded. The tape recording shall be the official record of the disciplinary hearing. Tapes shall be maintained by the Department for a period of 180 days from the date of completion of the review process. Except when required for Administrative review, the tapes shall be maintained at the facility.
- Upon commencement² of the disciplinary hearing, the Hearing Officer shall ask the offender for a plea of guilty or not guilty. The Hearing Officer shall inform the inmate that a guilty plea waives the appeal rights to the Director.
- e. The Hearing Officer shall explain to the inmate that a plea of guilty shall eliminate the opportunity of the case being reviewed by the Director. If the inmate wishes to file a grievance on any portion of the hearing process, he can only do so after completion of the appeal process except as it relates to time restrictions cited within this operations memorandum.
 - f. The Hearing Officer shall read the Offense Report, the Investigator's Report, all witness statements, and attachments into the record except as prohibited by the confidentiality guidelines.
 - g. The inmate shall be asked by the Hearing Officer to enter a plea of guilty or not guilty by marking the appropriate box and initialing the entry on the offense report. If the inmate refuses to initial, the officer shall write on the form that the inmate refused to sign.
 - h. The inmate shall be afforded the opportunity to make a statement to the Hearing Officer, present witness testimony, present statements and other documentary evidence, and be informed of the evidence against him

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	SUBJECT: ADOPTED: 10-1-83 Disciplinary Procedures Including Levels of Allowable Punishments & Reporting Procedures	

except for confidential information. The inmate shall not have access to any confidential reports or be allowed to cross-examine any adverse witness. The inmate or his representative may question relevant witnesses called on the inmate's behalf.

- i. Upon the completion of the statement of the inmate and questioning by the Hearing Officer, the inmate and his representative (if applicable) shall remove themselves from the disciplinary hearing during deliberation. The tape recorder shall be turned off during this period. In making the decision, the Hearing Officer shall consider only evidence presented during the course of such hearing.
- j. During deliberation the Hearing Officer shall only consider the evidence presented during the hearing when determining guilt or innocence. The Hearing Officer may consider the inmate's prior institutional record and the evidence presented during the hearing when determining punishments for an offense. The Hearing Officer is authorized to establish findings and punishment for any lesser included offense. Lesser included offenses are those acts of a lesser class under the same heading and having the same numerical prefix as the instant offense.
- k. When the deliberation is completed and has been recorded, the inmate and his representative (if applicable) shall return to the disciplinary hearing and the tape recorder shall be turned on again if applicable. At this time, the inmate shall be informed of the finding of the Hearing Officer and the basis for such finding, and the punishment imposed if applicable. A copy of the report shall be given to the inmate.
 - i. Should there be a finding of not guilty, the Misconduct Report shall be forwarded to the facility head. "Not Guilty" material shall never be available to, or used by, any staff person or committee in the decision making process concerning the inmate. No record of the misconduct report shall be made or filed in any individual inmate's record, either manual or automated. All lost earned credits resulting from the disciplinary process shall be restored.
 - ii. Should there be a finding of guilty or guilty to a lesser included offense, the inmate shall be informed of the reasons for such finding and the punishment imposed.

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	SUBJECT: ADOPTED: 10-1-83 Disciplinary Procedures Including Levels of Allowable Punishments & Reporting Procedures	

- aa. The punishment imposed shall be no more than three (3) punishments within the allowable range of punishments as listed in Attachment A.
 - bb. The allowable punishment may be suspended by the Hearing Officer for a specified period not to exceed 90 days. If the inmate is convicted of any rule infraction while on suspended punishment, the punishment shall be revoked to run consecutive to the new punishment. A revoked suspended punishment shall not be viewed as one of the possible three punishments for the new offense.
 - iii. Subsequent administrative action by the Facility Classification Committee or other authority shall not be construed as additional punishment. If the conviction for an offense affects the inmate's security level, the inmate will be considered by the Classification Committee for proper reclassification.
- 1. Within 24 hours of the conclusion of the disciplinary hearing, excluding weekends and holidays, the report shall be forwarded to the facility head for review. The facility head shall take one of the following three actions:
 - i. Affirm - the facility head agrees with the actions of the Hearing Officer.
 - ii. Dismiss - the facility head disagrees with the actions of the Hearing Officer and dismisses the Misconduct Report.
 - iii. Modify - the facility head modifies the action of the Hearing Officer.
 - aa. The facility head may suspend the punishment; reduce the amount of lost earned credits, restitution, or detention, or modify the punishment to extra work duty, restriction, reprimand, or order a re-hearing of the case. A modification cannot exceed, in time, the number of days of the original punishment. The facility head can not increase the punishment.
 - bb. Should the modification render the Misconduct Report ineligible for appeal by the Director and the inmate has requested such a hearing, it shall be so noted on the Disciplinary Report.

DEPARTMENT OF CORRECTIONS 	POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 318	PAGE NUMBER: 10 of 10
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m. The original of the Misconduct Report shall be forwarded to the facility's records office for inclusion in the inmate's manual and automated record.

B. Provisions To Handle Cases Where A Detention Unit Sanction Is Imposed

1. If the inmate requires reclassification within the guidelines established, the following procedures shall be used to effect the reclassification action:
 - a. If the inmate is to serve disciplinary time at the facility where pre-hearing detention was provided, the receiving facility shall conduct the classification hearing following the disciplinary hearing.
2. Where the inmate is to serve DU time at another facility, upon completion of the sentence (absent a classification action recommending higher security), the inmate shall be returned to the originating facility where the infraction occurred in a manner consistent with the Department's classification and transfer procedures.

C. Appeal Process

1. After the inmate has been informed of the punishment imposed by the Hearing Officer, he may request a review by the Director if the following criteria are met:
 - a. There was a finding of guilty when a plea of not guilty was entered and,
 - b. The punishment imposed was at least one of the following:
 - i. Disciplinary Unit (even if suspended)
 - ii. Loss of Earned Credits (even if suspended)
2. The inmate may appeal the Hearing Officer's decision to the Director when the above conditions are met. Appeal must be made within 15 days of the finding of guilty. The appeal will be decided within 30 days of receipt by the Director.
3. The inmate may appeal the Misconduct Report or the actions of the Hearing Officer through the established grievance procedure should he not qualify for a Director's Review. Any exceptions to this operations memorandum shall require prior written approval from the Director.

ACTS CONSTITUTING RULE VIOLATIONS*

	CLASS OF OFFENSE
GROUP DISRUPTION	
01-A. Banding together without administrative approval for purpose of demonstration, work stoppage, hunger strike, etc.	B
01-B. Taking over a part of the physical plant.	A
01-C. Participation by two or more in a course of disorderly conduct: (a) with purpose to commit or facilitate commission of a felony or misdemeanor; or (b) with purpose to prevent or coerce official action; or (c) when the actor or any other participant to the knowledge of the actor uses or plans to use a firearm or other deadly weapon.	A
01-D. Involvement in writing, circulating or signing a petition that poses a threat to the security of the facility.	C
INDIVIDUAL DISRUPTIVE BEHAVIOR	
02-A. Aiding and abetting in the commission of any rule violation.	C
02-B. Under the influence of and/or any use of illegal drugs, alcohol, intoxicating chemicals or any medication in an unauthorized manner.	B
02-C. Monetary misconduct - Entering into contractual agreements requiring time payments/receiving salary/wage advances/entering into other contractual agreements/failure to turn in all paychecks/money received.	C
02-D. Employment misconduct - Quitting job without prior approval/getting fired for misconduct on job, tardiness or shirking of duties/failure to notify staff/employer when too ill to work.	D
02-E. Unauthorized use of mail or telephone, to include passing unauthorized messages.	C

*The third infraction of the same rule violation within six months is justification for increasing the imposed sanction to a sanction classified in the next higher class of offense.

ACTS CONSTITUTING RULE VIOLATIONS*

	CLASS OF OFFENSE
02-F. Unauthorized contacts with public	D
02-G. Correspondence/conduct with visitor in violation of posted regulations, excluding sexual activity.	D
02-H. Running from or resisting apprehension within facility.	A
02-I. Interfering with taking of count.	C
02-J. Tattooing/self-mutilation.	C
02-K. Failure to keep one's self/quarters in accordance with posted regulations.	D
02-L. Failing to stand count.	D
02-M. Bucking an inmate line.	D
02-N. Not having proper I.D.	D
02-O. Tampering with or blocking any lock or locking device.	B
PRESENT IN UNAUTHORIZED AREA	
03-A. Outside defined boundaries within facility as defined by facility.	C
03-B. Outside living quarters after designated hours.	C
03-C. Failure to follow sign-in/sign-out procedures.	D
03-D. Unexcused absence from work/school assignment.	C
03-E. Unauthorized presence in another's cell/living quarters.	C
BATTERY	
04-A. Killing another person(s).	A
04-B. Participating in activity that directly results in the intentional death of another person(s).	A

*The third infraction of the same rule violation within six months is justification for increasing the imposed sanction to a sanction classified in the next higher class of offense.

ACTS CONSTITUTING RULE VIOLATIONS*

	CLASS OF OFFENSE
04-C. Battery of another person.	A
04-D. Participating in activity that directly results in the intentional injury of another person(s).	A
04-E. Rape or forcible sexual act.	A
04-F. Kidnapping another person.	A
MENACING	
05-A. Seizing another person as hostage.	A
05-B. Threats of bodily harm or death to another person.	B
05-C. Assault - any willful attempt or threat to inflict injury upon the person of another, when coupled with apparent present ability to do so, and any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm.	A
05-D. Making sexual threats to another person.	C
EXTORTION	
06-A. Demanding/receiving money or favors or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing.	A
THEFT	
07-A. Unauthorized use of State property/supplies.**	C
07-B. Breaking into another person's room/locker.**	B
07-C. Forgery of any type.**	C
07-D. Taking of property. (Value \$25 or over)**	C
07-E. Taking of property. (Value under \$25)**	D

*The third infraction of the same rule violation within six months is justification for increasing the imposed sanction to a sanction classified in the next higher class of offense.

**See Page 7 of Attachment A - Allowable Sanctions

ACTS CONSTITUTING RULE VIOLATIONS*

	CLASS OF OFFENSE
DESTRUCTION OF PROPERTY	
08-A. Destruction of State Property.**	C
08-B. Destruction of property of another person.**	C
08-C. Setting a fire.**	A
08-D. Willful adulteration of any foods or drinks.	A
08-E. Mutilation or alteration of State clothing or linen.**	D
POSSESSION/MANUFACTURE OF CONTRABAND	
09-A. Possession/introduction of any explosive, combustible substance or fireworks.	A
09-B. Possession/introduction of any gun, firearm, weapon ammunition, knife, sharpened instrument, unauthorized tool.	A
09-C. Possession/introduction of any drug, narcotic, intoxicant, chemical, drug paraphernalia not prescribed by medical staff.	A
09-D. Possession of money or currency, unless specifically authorized.	C
09-E. Possession of property belonging to another person.	C
09-F. Possession of clothing not authorized by facility.	D
09-G. Possession of staff uniforms.	A
09-H. Manufacture of intoxicants.	A
09-I. Counterfeiting, forging, or unauthorized reproductions of any document, article of identification, money, security, or official paper.	B
09-J. Possession of gambling paraphernalia not specifically authorized by the facility.	C
09-K. Possession of unauthorized identification.	C

**See Page 7 of Attachment A - Allowable Sanctions

ACTS CONSTITUTING RULE VIOLATIONS*

CLASS
OF
OFFENSE

SEXUAL ACTIVITY

- | | | |
|-------|---|---|
| 10-A. | Engaging in sexual activity with another consenting person. | C |
| 10-B. | Making sexual proposals to another person. | D |
| 10-C. | Indecent exposure. | B |
| 10-D. | Bestiality. | B |

DISRESPECT TO STAFF

- | | | |
|-------|---|---|
| 11-A. | Insolence to staff member. | C |
| 11-B. | Using abusive/obscene language to staff member or visitor. | B |
| 11-C. | Making profane/obscene gestures to staff member or visitor. | B |

DISOBEDIENCE TO ORDERS

- | | | |
|-------|---|---|
| 12-A. | Failure to obey verbal and/or written order of staff member in a prompt manner. | B |
|-------|---|---|

FALSE STATEMENT

- | | | |
|-------|-----------------------------------|---|
| 13-A. | Lying to staff member. | C |
| 13-B. | Malingering, feigning an illness. | C |

GAMBLING

- | | | |
|-------|---|---|
| 14-A. | Preparing or conducting a gambling operation. | A |
| 14-B. | Participating in games of chance for gain/profit. | C |

BARTERING

- | | | |
|-------|---|---|
| 15-A. | The trading, selling, or loaning of property. | C |
| 15-B. | Attempting to give, giving, or receiving money or anything of value from any person as a bribe or inducement. | A |

**See Page 7 of Attachment A - Allowable Sanctions

ACTS CONSTITUTING RULE VIOLATIONS*

CLASS
OF
OFFENSE

ESCAPE

- | | | |
|-------|--|---|
| 16-A. | Successful escape from the custody of the Department of Corrections. | A |
| 16-B. | Participating in any activity that aids or abets an escape. | A |
| 16-C. | Failure to return from any approved activity or pass at the designated time. | A |
| 16-D. | Any attempt to escape from the custody of the Department of Corrections. | A |

RANGE OF ALLOWABLE SANCTIONS
Limit of Three Sanctions Per Class

Class A

1. Disciplinary Unit 0-60 days
2. Loss of earned credits up to 365 days*
3. Loss of Designated Privileges 0-60 days***
4. Restitution**
5. Extra duty up to 4 hours/day, not to exceed 60 days

Class B

1. Disciplinary Unit 0-30
2. Loss of Earned Credits 0-180*
3. Loss of Designated Privileges 1-30 days***
4. Restitution**
5. Extra duty up to 4 hours/day, not to exceed 30 days.
6. Formal reprimand/warning.

Class C

1. Disciplinary Unit 0-15
2. Loss of Earned Credits 0-90*
3. Loss of Designated Privileges 0-15 days***
4. Restitution**
5. Extra duty up to 4 hours/day, not to exceed 15 days.
6. Formal reprimand/warning.

Class D

1. Loss of Designated Privileges 1-15 days***
2. Restitution**
3. Extra duty up to 2 hours/day, not to exceed 5 days.
4. Formal reprimand/warning.

*Not to exceed amount accrued.

**Restitution may only be imposed in special cases, and then only for the actual amount of the replacement value of the item destroyed.

***Designated privileges include T.V. radio, phone, commissary (except postage stamps), movement, visits (except attorney), pass/furlough eligibility.

III. INMATE MANAGEMENT

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 316	PAGE NUMBER: 1 of 8
	SUBJECT: REVISED: 10-1-83	
	OFFENDER GRIEVANCE PROCESS	

Policy of the Department

It is the policy of the Idaho Board of Correction that the Idaho Department of Corrections provide a process that enables each offender to resolve problems and find answers to questions concerning the operation of the Department as it relates to the offender. It is the purpose of this policy to provide a responsive offender grievance process whereby the offender will be able to address complaints concerning the Idaho Department of Corrections.

REFERENCES: Federal Register Vol. 46 No. 190 -- Part 40 -- Standards for Offender Grievance Procedures dated October 1, 1981.

42 U.S.C. § 1983

42 U.S.C. § 1197e

Order No. 957-81, 46 Federal Register 48186. October 1, 1981 Standards for Adult Correctional Institutions, 2d ed. Standard 2-4343

Standards for Adult Community Residential Services, 2d ed. Standard 2-2154

Standards for Adult Probation and Field Services, 2d ed. Standard 2-3163.

PROCEDURES: The Grievance procedure provides a legitimate method for the administrative settlement of offender grievances and guarantees the offender protection from reprisal.

1. General guidelines for the offender grievance process.

A. Definition of Terms

- (1) Offender Grievance. A written complaint by an offender on the offender's own behalf, regarding the policy within a facility, a condition of a facility, medical or dental problem, an incident occurring within a facility, or problems incident to parole or probation supervision.
- (2) Offender. For the purpose herein, the term shall be used to include offenders in institutions and community work centers, as well as probationers and parolees.
- (3) Reviewing Authority. These terms are used herein to refer to wardens and superintendents for incarcerated offenders, and district managers for probationers and parolees.
- (4) Appellate Authority. This term is used herein to refer to the director of the Department of Corrections for incarcerated offenders and the administrator of the division of Probation and Parole for probationers and parolees.

III. INMATE MANAGEMENT

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 316	PAGE NUMBER: 2 of 8
	SUBJECT: REVISED: 10-1-83 OFFENDER GRIEVANCE PROCESS	

B. Applicability of the Grievance Procedures

- (1) Unless otherwise specified, the offender grievance procedure may be used to address complaints by offenders regarding all policies, conditions of confinement, actions by employees and other offenders and incidents occurring within the jurisdiction of the Idaho Department of Corrections that affect the offender personally.
- (2) Offenders are entitled to use the offender grievance procedure regardless of their classification or disciplinary status. If the offender wishes to file a grievance on any portion of the disciplinary hearing process, he or she can do so after completion of the disciplinary appeal process.

C. The offender should seek informal resolution and exhaust all other available administrative remedies prior to using the grievance process.

D. Reprisals against offenders who file offender grievances are strictly prohibited. Offenders have the right to file grievances against any employee for any reprisal resulting from the filing of an grievance. "Reprisal" means any action or threat of action against anyone for the use of, or participation in the grievance procedure.

2. Communication of Offender Grievance Procedures

- A. The written offender grievance procedure hearing shall be readily available to all employees and offenders.
- B. The institutions' Policy and Procedure Manual will explain in detail the offender grievance procedures. In addition, orientation meetings for offenders at all facilities will include an oral explanation of the procedures and the opportunity to have questions regarding the procedures answered.
- C. Offenders who do not understand English will be provided a translation in the language in which they demonstrate competency.
- D. All correctional employees who may reasonably be expected to be involved in the grievance process will receive training.

3. The Offender Grievance Process

- A. If an offender's aggrieved issue could not be handled informally, the offender's complaint must be filed within 15 calendar days of the incident in which the aggrieved action occurred. The reviewing authority may choose to extend the

III. INMATE MANAGEMENT

DEPARTMENT OF CORRECTIONS	POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 316	PAGE NUMBER: 3 of 8
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		OFFENDER GRIEVANCE PROCESS	

filing period up to 60 days. Under no circumstance will the grievance be accepted after 60 days of the incident unless so ordered by a court pursuant to 42 USC Sec. 1997e.

B. The offender will indicate the following information on the "offender grievance report form" (refer to Attachment A):

1. The nature of the complaint. This statement must be specific as to the complaint, dates, places, personnel involved, and how the complaining offender has been affected.
2. Informal action taken to resolve the complaint as well as the names of those employees from whom the offender sought an answer to the grievance.
3. The action the offender believes the reviewing authority should take.
4. The date the completed grievance report form was sent to the reviewing authority.

C. Response by the reviewing authority:

1. Upon receipt of a grievance report form, the reviewing authority will assign a grievance number, grievance category code, indicate the date of receipt, and return the grievance report form to the offender with a response within twenty-one (21) calendar days.
2. Response will contain findings of fact, conclusions made, action taken by the reviewing authority, and reason(s) for action taken.
3. In the event a grievance cannot be adequately answered within the 21-day period, the reviewing authority will so inform the offender in writing within the 21-day period. The reviewing authority must state the reasons the response was delayed and will establish the date when a response will be given. This date must not exceed 30 days from the receipt of the grievance report form.
4. In all cases, the reviewing authority will return the original to the offender. The original may be used for further appeal (refer to Section 3.D) if the offender desires. A copy of the grievance report will be retained by the reviewing authority.

D. Appeal to the appropriate appellate authority:

III. INMATE MANAGEMENT

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 316	PAGE NUMBER: 4 of 8
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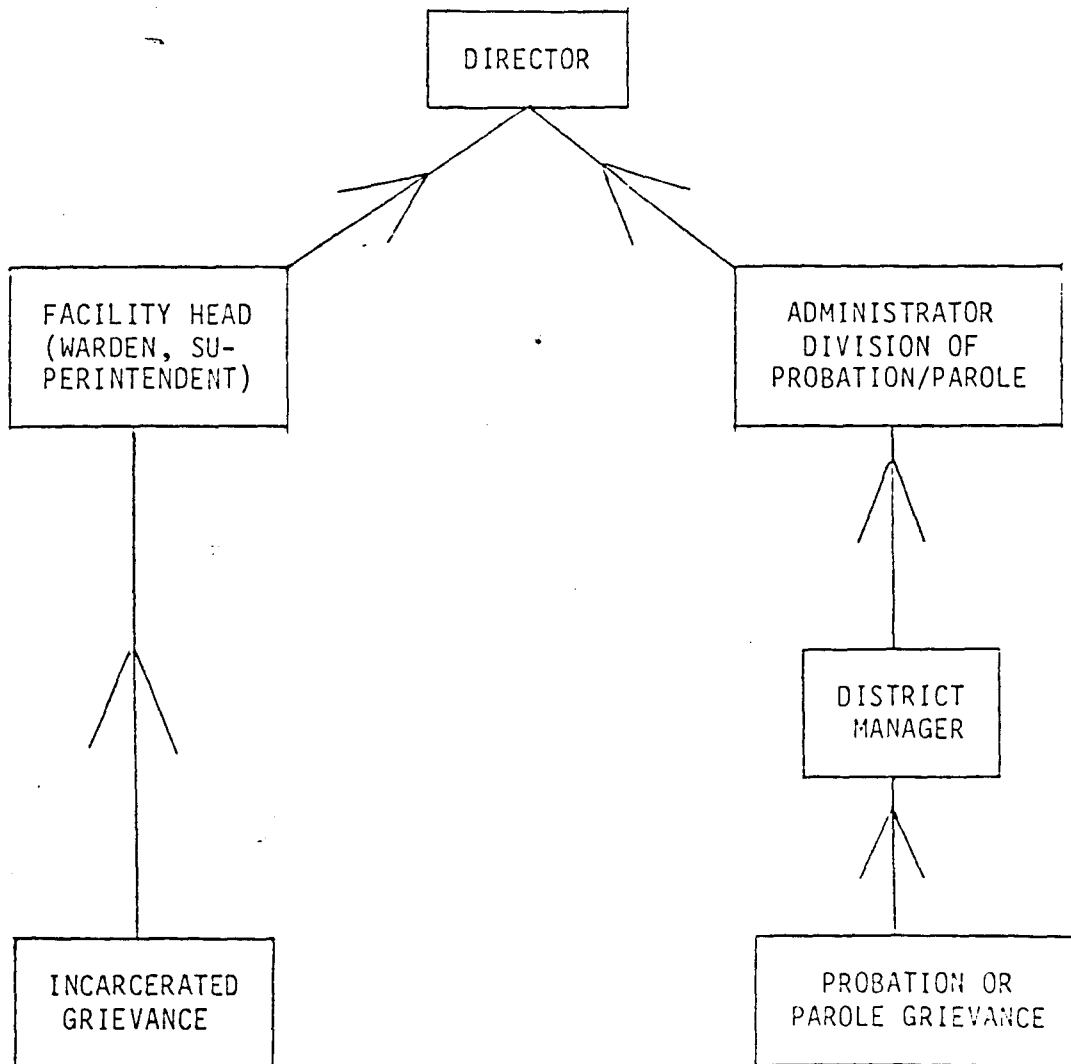
1. If the offender feels the reviewing authority response was not satisfactory and chooses to appeal, the offender must appeal to the appropriate appellate authority within ten (10) days of the reviewing authority's response.
 2. The appellate authority has 21 calendar days from the receipt to respond and return the grievance report to the offender. If an extension is required, the offender shall receive written notification. Response time must not exceed a total of 30 days.
 3. When the offender feels that the complaint is of a sensitive or emergency nature; or that he/she may be adversely affected by the admission of the complaint at the initial level, the offender may address the complaint directly to the appropriate appellate level. The offender must indicate a valid reason for not bringing the complaint to the attention of the initial reviewing authority. If the offender does not provide a reason, or the reason supplied is not adequate, the complaint will be returned to the appropriate level for processing, with a written explanation to the offender and the timetable will be altered as provided in Section 3.C.(1).
 4. For incarcerated individuals the appellate authority shall be the Director. For probationers and parolees the authority shall be the Administrative of the Division of Parole and Probation.
- E. Appeal to the Director for probationers and parolees:
- (1) If the offender feels the response of the appellate authority was not satisfactory, the offender may appeal to the Director or designee within 10 days of receipt of the appellate authority's response.
 - (2) The Director or designee will send a response to the offender within 20 calendar days from receipt of the grievance report. The answer shall indicate findings of fact, conclusions made, and actions taken.
 - (3) A grievance form sent to the Director or designee without prior action by the appropriate reviewing authority or appellate level will be forwarded to the appropriate authority for response.
- F. In actions brought under 42 USC Sec. 1983 where a court has stayed an action for a period not to exceed 90 days in order to require an offender to exhaust the offender grievance process (42 USC Sec. 1997E), the offender shall attach a copy of the court's order to the grievance report form and submit the grievance to the reviewing authority within ten (10) days of the order. The reviewing authority shall establish deadlines so the grievance procedure will be completed at the Director's level within the court-ordered period of stay.

III. INMATE MANAGEMENT

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 316	PAGE NUMBER: 5 of 8
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- G. All other offender grievances shall reach final disposition within 90 calendar days after original filing unless the grievant agrees in writing to an extension for a fixed period.
 - H. Expiration of a time limit at any stage of the offender grievance process will entitle the offender grievant to move to the next stage of the grievance process unless the offender has been notified in writing of an extension of the time necessary for response.
4. Distribution of responses to offender grievances
- A. The reviewing authority shall retain one copy of each offender grievance report for the unit grievance file, and return the original of the grievance to the offender.
 - B. The appellate authority in the case of probationers and parolees, shall send one copy to the appropriate reviewing authority, one copy to the appropriate facility file, and the original back to the offender.
 - C. The Director shall send a copy to the appropriate reviewing authority or appellate authority and one copy to the appropriate facility file. The original will be forwarded to the offender.
 - D. All offender grievance records shall be treated as confidential and shall be maintained in the appropriate facility file. Access is limited to those corrections employees who have a need for such information in the performance of their duties.
5. Offenders and employees were afforded an advisory role in the formulation and implementation of this procedure.
6. Any exceptions to the procedures in this memorandum shall require prior written approval from the Director.

GRIEVANCE SYSTEM FLOW-CHART



INMATE GRIEVANCE FORM

DATE: _____

FACILITY: _____

NAME: _____

INSTITUTIONAL NO.: _____

YOU MUST FILE WITHIN FIFTEEN (15) DAYS OF INCIDE

Nature of complaint (be specific as to complaint, dates, places, etc.):

The action you believe reviewing authority should take:

Signature of Grievant

Grievance sent to: _____

Name

Title

RESPONSE FROM REVIEWING AUTHORITY:

RECEIPT DATE: _____

GRIEVANCE NO.: _____

☒ INDIVIDUAL (1) ☐ Classification (4) ☐ Disciplinary (7) ☐ Property☒ POLICY (2) ☐ Complaint Against (5) ☐ Legal (8) ☐ Records (10) ☐ Oth
PROCEDURE Staff(3) ☐ Condition of (6) ☐ Medical (9) ☐ Visiting
Confinement

Response: (be specific)

You have the right to appeal to the
Director within ten (10) days

Signature

Date

I wish to continue my appeal because:

Signature

Date

Response by Director:

Signature

Date

VI. INSTITUTIONAL PROGRAMS AND ACTIVITIES

DEPARTMENT OF CORRECTIONS 	POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 605	PAGE NUMBER: 1 of 1
		SUBJECT: Policy for Release of Inmates on Furlough	

Policy of the Department

To provide the criteria and procedures whereby selected inmates may participate in the furlough program for the purposes of strengthening such family and community ties as the inmate may have; assisting the inmate in developing, preserving, and maximizing his financial and interpersonal ties; stabilizing responsible social attitudes and behavior; obtaining needed health services not otherwise available; handling emergency situations; and for other purposes consistent with the furtherance of an inmate's rehabilitation plan.

Procedure

1. An Administrator of an institution is authorized to grant furloughs in accordance with institutional rules and regulations and Idaho Code 20-101C to inmates who have a good behavior record, and are classified under minimum custody status. Each institution or facility shall have a specific furlough procedure. Furloughs granted under I.C. 20-101C shall be in accordance with statutory requirements. Furloughs may be granted for the following purposes:
 - a. Emergencies, including critical illness, death, emotional crisis, or similar situations in the inmate's immediate family.
 - b. Obtaining health services not available in any of the Department's institutions.
 - c. Seeking employment if:
 1. Specific job interviews have been arranged.
 - d. Setting residential plans for parole release.
 - e. Caring for business affairs in person when not doing so would cause depletion of an inmate's assets or resources so seriously as to affect his family or future economic security.
 - f. Family visits in order to strengthen or preserve relationships, exercise parental responsibilities, or prevent family division or disintegration.

(a) - passes and furloughs

**THE POLICIES AND PROCEDURES
OF
THE IDAHO COMMISSION FOR PARDONS AND PAROLE**

**which pertain to inmates
currently incarcerated in
The Idaho State Correctional Institutions**



**Revised
March 1, 1984**

- (b) - parole

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FORWARD

The Idaho Commission for Pardons and Parole is a five member board appointed by the Board of Corrections and confirmed by the State Senate.

Members serve five year terms as established by Idaho Code 20-210.

The Commission functions are delineated and restricted by the State Constitution and the laws of the State of Idaho.

The policies and procedures which follow have been established pursuant thereto. The Commission reserves the right to deviate from these normal procedures whenever it determines that extraordinary circumstances so warrant. The Commission additionally reserves the right to act at its discretion in circumstances not specifically outlined by its policy.

Following parole, pardon and commutation hearings, each county prosecuting attorney shall be informed of the action taken.

PART ONE - THE PAROLE PROCESS

Parole: A conditional release from a penal institution under a contractual agreement between the Commission for Pardons and Parole and a convicted felon. Parole is not a right but a privilege. The process regarding the granting or denial of parole is as follows:

I. The Primary Interview

- A. Every inmate will be interviewed by a Commissioner or representative of the Commission within six months after being received as a commitment to the Idaho Department of Corrections. Exceptions: 1) Any inmate with a sentence of three years or less will be given a Primary Interview at three (3) months; 2) Any inmate retained upon relinquishment of jurisdiction by the Court will be interviewed two months following retention.
- B. The purpose of the Primary Interview is:
 - 1. To establish the Commission's basic record.
 - 2. To introduce the inmate to the general orientation of the Commission.
 - 3. To make the inmate clearly aware of any sentencing restrictions.
 - 4. To establish the date for the inmate's initial appearance before the Commission.
- C. If, concurrently with a sentence restricted under Idaho Code 20-223 (Appendix 1), an inmate is serving another sentence for a crime not so restricted, the inmate will not be granted a parole appearance on the unrestricted sentence until he is eligible for parole on the restricted sentence.
- D. Where an inmate incarcerated in a facility in another State is eligible for a Primary Interview, the Commission may ask the administration of that institution to make arrangements which would enable a Commissioner or the Commission's representative to conduct this interview by long distance telephone rather than traveling to the institution where the inmate is incarcerated.
- E. An inmate who escapes prior to the Primary Interview will be scheduled for a Primary Interview within six (6) months after being returned to the custody of the Idaho Department of Corrections.
- F. Normally, an inmate shall not be considered by the Commission for parole until after the Primary Interview.

II. The Parole Hearing

A. The Scheduling

1. The Commission for Pardons and Parole will hold regular parole hearings and parole revocation hearings each month. These hearings will normally be conducted by a quorum of three Commissioners. The Commission hearing days in January, April, July and October are normally reserved for the consideration of pardon and commutation hearings by the full Commission, and parole consideration of inmates whose parole hearing is restricted by Idaho Code 20-223. (Appendix 1)
2. Unless otherwise restricted by Idaho Code 20-223, the length of time between parole hearings shall be based upon factors including, but not limited to, the length of maximum sentence, seriousness of the instant offense, extensiveness of the criminal record, and relative degree of rehabilitative progress. Any inmate whose next parole hearing is scheduled more than thirty (30) months in the future shall receive a jacket review no less frequently than every thirty (30) months.
3. At least thirty (30) days prior to the date of the scheduled hearing, a list of the names of the inmates scheduled for hearing in that month will be mailed or otherwise communicated to all district court judges, all prosecuting attorneys, and all sheriffs and chiefs of police in the State of Idaho.
4. No inmate is required to be present at his scheduled parole hearing, but will be afforded every reasonable opportunity to do so.
5. When an inmate is incarcerated in an institution other than the Idaho State Correctional Institution, the parole hearing may, and ordinarily will, be conducted either by telephone conference call with the Commission or by a Commissioner or representative of the Commission at the institution where incarcerated. If the hearing is conducted at the institution where the inmate is incarcerated, information from the hearing will be presented to the Commission during its regularly scheduled hearing at which time a decision to grant or deny parole will be made.

B. The Parole Hearing

1. The Commission invites and encourages the inmate's correctional counselor to be present at his parole hearing. No witness on behalf of a parole applicant will be allowed to testify at parole hearings unless the Commission has reason to believe that he can provide important information which can be obtained in no other way. Representatives and witnesses must be scheduled through the Executive Secretary at least five (5) days prior to the day on which the hearing is scheduled.
2. Staff members, other than the inmate's correctional counselor, will not be heard except upon approval or invitation of the Commission.

C. The Decision

1. The granting of a parole depends exclusively upon the discretion of the Commission for Pardons and Parole. In general, a parole is granted

only when, in the judgement of the Commission, an inmate, otherwise eligible, will be thought likely to avoid further violation of the law and live as a good citizen. The Commission evaluates each case upon its individual merits and acts to grant or deny release on parole as its best judgement dictates.

2. The Commission has established criteria to be used in parole consideration. These criteria are frequently reviewed by the Commission and fall within certain general areas. They pertain to:
 - a. The seriousness and aggravation/mitigation involved in the crime for which subject is incarcerated.
 - b. Official reports regarding the extent of subject's criminal career.
 - c. Failure or success of past probation or parole.
 - d. Institutional adjustment and ability to conform to established rules and procedures.
 - e. Involvement in available programs that are likely to assist subject after release.
 - f. Evidence of the development of a positive social attitude and a willingness to fulfill the obligations of a good citizen.
 - g. Official reports of exceptional conduct, involvement in institutional disorder or the exploitation of other inmates.
 - h. The strength and stability of the proposed parole plan.
 - i. Reports of physical, mental or psychiatric examinations.

The Commission may also consider recommendations and information from other sources such as institutional staff, judges, prosecuting attorneys, law enforcement officials, defense attorneys and family, so long as the information is related to specific facts relevant to the proceedings.

3. Regarding the inmate's parole plan: The two main stipulations are that the inmate shall have adequate arrangements for employment or maintenance and care and an adequate home placement. The adequacy of employment and home placement are determined by a parole officer in a pre-parole investigation. Inmates with particular problems (such as alcoholism, incapacitating physical disorder, etc.) may be paroled to some facility in which care will be provided. An educational program may be considered as adequate "employment", provided that the parole applicant presents evidence of ability to complete successfully, work at that academic or vocational level, and provided that evidence of adequate funding is presented.
4. A decision to grant or to deny a parole must be made by a majority of the five members of the Commission. If, at a regular hearing, the vote of the three Commissioners is not unanimous, the case will be continued to a time when a sufficient number of Commissioners are present to obtain a majority vote of the full Commission.

5. Once the Commission has made its decision, the inmate will not be permitted to present additional arguments.
6. If an inmate is involved in a major disciplinary rule infraction after a parole or final release date has been granted but before being released, the release will be postponed and the circumstances of the rule infraction reported to the Commission at the inmate's jacket review prior to release. If the case had already been jacket reviewed, the Commission will review the circumstances at its next scheduled meeting. The Commission may: (1) reinstate the parole or release date; (2) suspend the parole or release date until the inmate is ninety (90) days disciplinary free; or (3) rescind the parole or release date granted and schedule another parole hearing.
7. An inmate who is convicted of either a misdemeanor or felony crime committed in the institution should expect to be required to serve one-third (1/3) of the time remaining until the goodtime release date of the sentence being served at the time the crime was committed, or five (5) years, whichever is the least, before receiving consideration for discharge or parole.
8. If, after a parole or final release date has been granted but before an inmate is released, the Commission receives additional information concerning the inmate which might reasonably have resulted in a parole or release date not being granted at a prior hearing, the Commission may cancel the date granted and schedule another parole hearing.

D. Escape Policy

This policy requires the inmate to serve one-third (1/3) of the time remaining until the goodtime release date of the sentence being served at the time of the escape, or five (5) years, whichever is the least, before receiving consideration for discharge or parole.

1. When an inmate is found by the Institution's Adjustment Committee to have violated the Institution's rules by escaping, or by attempting or conspiracy to escape, and, for any reason, is not charged with the crime of Escape, he/she may be regarded by the Commission as having escaped, and its escape policy may be applied.
2. If an inmate escapes from the custody of the Idaho Department of Corrections and subsequently is incarcerated in another state correctional facility, the Commission authorizes the sentence being served at the time of escape to recommence on the date of adjudication and/or dismissal of the escape charge by the Idaho judicial authorities.

E. Parole to a Detainer

The policy of the Commission with regard to parole to detainers is, in general, in accord with the principles recommended by the Association of Administrators of the Interstate Compact for the Supervision of Parolees and Probationers.

1. The status of detainers held against prisoners in institutions shall be investigated, insofar as is reasonably possible, prior to a parole hearing.

2. If, at the time of the parole hearing, a valid detainer has been lodged against an inmate, the Commission will grant parole to such detainer only if the status of that detainer has been investigated and parole is deemed appropriate.
3. If, prior to the inmate's release, it is learned that the detaining jurisdiction will not exercise its detainer, the parole will be regarded as null and void, and the subject must return before the Commission for further consideration.

F. Consecutive Sentences

When an inmate has two or more sentences to be served consecutively, the first of the consecutive sentences will be considered as a single sentence with little regard for sentences remaining to be served at the time of the parole decision. In other words, an inmate serving the first of consecutive sentences ordinarily will not receive a final discharge from his first sentence any more quickly than he would be paroled if this were the only sentence being served.

G. Fixed Term Sentences

Inmates convicted and sentenced with Fixed Term sentences are not eligible for parole consideration and will not receive a parole hearing on these sentences (Appendix 3).

H. Self-Initiated Parole Hearings

The Idaho State Correctional Institution enables inmates to earn work credits, and had provided for exchange of work credits for a Self-Initiated Progress Report. Very few hearings are granted, and generally, only when the circumstances have changed significantly since his/her last parole hearing.

1. Inmates requesting a Self-Initiated Parole Hearing must have had their initial hearing before the Commission.
2. Inmates who wish a Self-Initiated Parole Hearing will notify their counselor, who will provide them with form "Self-Initiated Progress Report." When the form is completed by the inmate and returned to the counselor, the counselor will sign the form, forward it to the Commission, and insure work credit expenditure is entered in the inmate's central file.
3. The Commission will review the Self-Initiated Progress Reports only during its January, April, July and October meetings.
4. If, after considering the Self-Initiated Progress Report, the Commission grants a special parole hearing, the inmate will not be required to exchange work credits in addition to those used for the progress report. Additionally, the date for the regularly scheduled parole hearing will not be affected.
5. An inmate will be permitted only one special parole hearing in any calendar year.

III. Parole Release

A. Following the granting of a parole, the following process begins:

1. The inmate's correctional counselor submits a "half-sheet" to the Commission. This is a form which contains the details of the parole plan. Counselors will not submit "half-sheet" forms any earlier than ninety (90) days prior to the tentative parole date for out-of-state plans, and no earlier than thirty (30) days for Idaho plans.
2. When the plan is submitted, the Commission secretary compiles a packet of basic data and sends it to the district office of the Division of Probation and Parole near where the inmate wishes to serve parole. If the inmate has been granted an out-of-state parole, the packet is sent through the Interstate Compact to that state.
3. When the packet is received in the district office, it is assigned to a parole officer who will investigate the plan. In Idaho this investigation is usually completed within two weeks from the day it is received in the district office. For an out-of-state plan, sixty (60) days or longer may be required to complete the investigation.
4. While the plan is being investigated, the inmate is required to attend Parole School. This is a period of instruction on the obligations of being a parolee. An inmate who is being paroled to a detainer is not required to attend.

B. Upon being granted a parole, the inmate is required to enter into an agreement with the Commission to adhere to a set of standard rules and regulations. The Commission, at its own discretion, or upon recommendation of the habilitation staff or the parole field staff, may add additional regulations in specific cases. The inmate will be given a copy of the conditions of parole.

1. A parole release will not be granted until the inmate has attended a period of instruction in which the substance and implications of the standard parole rules and regulations will be thoroughly explained.
2. Except in very unusual circumstances, described below, the inmate who is granted parole will receive supervision from a parole officer. Upon release from the institution, the parolee will receive instructions about where and when to report to the parole officer. Unless a waiver is received from the Commission in writing, parolees are to report to their designated parole officer within twenty-four (24) hours of release to an Idaho plan, or seventy-two (72) hours to an out-of-state plan.
3. Every inmate supervised in the State of Idaho will be assigned to Class A parole supervision status. A parolee with this status is carried on the case load of a parole officer and reports to that officer as instructed. There are three levels of supervision, ranging from frequent personal interviews to infrequent reporting by mail. The parolee's level of supervision will be determined by the parole officer and/or the District Manager of that parole district.

4. An inmate granted a parole to an out-of-state plan will normally be assigned Class A parole supervision status. The degree of supervision will be determined by the policies of the parole division of that state.

a. A parolee who is receiving Class A supervision in another state is to follow the procedures prescribed by the parole division in that state.

5. In very unusual circumstances an inmate granted a parole to an out-of-state plan may be placed on Class B parole supervision status (formerly called "unsupervised parole"). An inmate who is granted Class B status is given a set of monthly report forms upon leaving the institution. These are to be filled out at the beginning of each month and sent to the Executive Secretary of the Commission. Any change of address is to be reported immediately to the Executive Secretary. During the time on parole, the Executive Secretary will, on a random basis, request a report from the National Criminal Identification Center to determine if there have been any unreported arrests.

a. A parolee who is serving parole outside of Idaho on Class B status and then returns to Idaho must report to the parole office nearest his/her place of Idaho residence or temporary lodging within seventy-two (72) hours. If permanent residence in Idaho is intended, the parolee will be placed on Class A status and a parole officer will be assigned.

6. Whenever any person committed to the custody of the State Board of Corrections shall have been granted a parole, it shall be the duty of the Records Office to transmit a copy of the parole agreement and information as to the parolee's place of residence to the Prosecuting Attorney of the appropriate county.

IV. Discharge from Supervision

- A. The Idaho Code specifies that an inmate released on parole will remain on parole for a minimum of one year, except that he cannot be kept under the custody of the Board of Corrections beyond his statutory release date.

1. At the end of one year, the supervising parole officer may recommend to the Commission either that the period of parole supervision be extended or the parolee be discharged.

2. An inmate paroled from a sentence for a crime specified in Idaho Code 20-223 will be required to serve a minimum period of time on parole equal to one-third (1/3) of the time remaining until the maximum expiration date, or five (5) years, whichever is the least, before being eligible for a final discharge from custody. At the end of the minimum period of parole supervision, the supervising parole officer may recommend to the Commission either that a final discharge from custody be granted, or that the period of parole supervision be extended.

3. A parolee on Class B parole may, without a parole officer's recommendation, request discharge from supervision according to the above guidelines.

4. A parolee's statutory release date is the maximum full-term expiration date minus the good time accumulated during incarceration.

The Director of the Idaho Department of Corrections shall be given the content or nature of such interviews or communications in a manner which shall preserve the confidentiality of the source of the information;

b. Have complete and unobstructed access to files, records, reports, memoranda or other documents within the defendants' custody for purposes of compliance with the terms of this agreement;

c. Have the authority to retain experts to evaluate the technical areas of medical-psychiatric care, sanitation, and fire safety when such assistance becomes necessary to adequately assess compliance. Local experts will be used when available, and if local experts are not available, experts from the National Institute of Corrections will be used. The experts' fees and costs will be paid by the defendants and will be limited to standard NIC fees plus reasonable expenses;

d. Have unobstructed access to tour and inspect the institutions. Ordinarily the auditor will inform the Director of Corrections of his plans to visit the institutions, but may visit unannounced if necessary.

e. Not be subject to dismissal except upon agreement of both parties, or by the court upon motion of one of the parties and a showing of good cause.

7. The auditing period shall continue for 24 months from the date of the approval by the court of this Stipulated Settlement Agreement. During that time the auditor shall prepare five (5) reports summarizing the auditor's findings and

evaluations. Copies of such reports shall be provided to counsel for the parties and the court.

8. Counsel for plaintiffs will be provided with notice of all communications between the auditor and defendants, notice of all visits by the auditor, and notice of all types of the material required by and/or delivered to the auditor by the defendants. Counsel for the defendants will be provided with notice of all communications between the auditor and plaintiffs' counsel. Counsel for the plaintiffs and defendants will also be given a summary of all materials reviewed by the auditor. Upon request by counsel for the plaintiffs, the defendants will provide copies of any documents reviewed by the auditor that would be otherwise relevant and discoverable under the Federal Rules of Civil Procedure.

9. The auditor, with the agreement of both parties, shall have authority to extend the auditing period for an additional twelve (12) months to allow for compliance, in which case the auditor will prepare two (2) more reports of findings and evaluations.

10. After six months, following the date of the approval of this agreement, and at the end of each subsequent six month period thereafter, the defendants will file with the court, the auditor and the plaintiffs a comprehensive plan outlining the means by which they intend to comply with the terms of this agreement.

11. This agreement resolves all the issues raised in the pleadings in this case with the exception of attorneys' fees and costs.

Attached hereto are appendices which are incorporated as part of this Settlement Agreement and which specify the particular relief contemplated by this Agreement. Appendices I through XXII are not subject to modification. Appendices a-i, incorporated herein by reference, represent present policies of the Idaho Department of Corrections. The Defendants may modify these policies at any time unless the plaintiffs can show that such modification will result in a substantial detriment to the plaintiff class. However, the defendants may modify these policies, regardless of a detrimental effect to the plaintiff class, upon a showing that such modifications are essential to the operation of the institution.

12. The parties agree that this Stipulated Settlement Agreement will be honored and fulfilled in the utmost good faith and that, should either party breach any portion of the Agreement, at any time, the other party may seek enforcement upon motion to the court.

13. The parties agree and stipulate that this action may be dismissed, without prejudice, pursuant to Fed. R. Civ. P. 41, upon full performance, as certified by the auditor, by all parties to this Stipulated Settlement Agreement.

14. The effective date of this Stipulated Settlement Agreement is the date on which it is approved by this Court.

DATED this _____ day of _____, 1984.

BY DEFENDANTS:

Jim Jones
Attorney General
State of Idaho

Robert R. Gates
Robert R. Gates
Deputy Attorney General
Corrections Section

A.I. Murphy
Director of Corrections
State of Idaho

BY PLAINTIFFS:

Claudia Wright
Claudia Wright
ACLU National Prison Project

Stephen Pevar/cw
Stephen Pevar
American Civil Liberties Union

Randy Robinson
Howard Bellodoff
Idaho Legal Services

U. S. DISTRICT COURT
DISTRICT OF IDAHO
Filed at _____ M

IN THE UNITED STATES DISTRICT COURT MAY 26 1983

FOR THE DISTRICT OF IDAHO

JERRY L. CLAFF, Clerk
By _____ Deputy

LOIS WITKE, et al.,
Plaintiffs,

v.

C. W. CROWL, et al.,
Defendants.

CIVIL NO. 82-3078

ORDER CERTIFYING
CLASS ACTION

On February 3, 1983, plaintiffs moved this court to certify the above-entitled cause as a class action. Defendants do not oppose this certification. After carefully reviewing the file, the court finds that the plaintiffs can establish the prerequisites as set out in Rule 23(a), Fed.R.Civ.P. The court further finds that the action is maintainable as a Rule 23(b)(2) action.

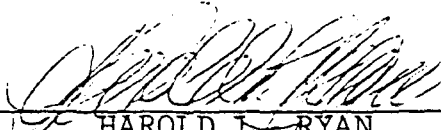
IT IS, THEREFORE, ORDERED that plaintiffs' Motion for Class Certification should be, and the same is hereby, GRANTED. The certification of this class is conditional and may be altered or amended before the decision on the merits. The class shall consist of all women presently incarcerated at the North Idaho Correctional Institution and those women who will be incarcerated there in the future. Since the action is maintainable under Rule 23(b)(2), notice to the

ATTACHMENT A

ORDER CERTIFYING CLASS ACTION

respective class members will not be required at this time.

DATED this 21 day of May, 1983.



HAROLD L. RYAN
UNITED STATES DISTRICT JUDGE

APPENDICES

I. Vocational Training

(A) Women will be afforded opportunities in vocational training comparable to those afforded to male inmates within the Idaho Department of Corrections. All monies received for the purpose of providing such opportunities, including monies received from the federal government, will be fairly allocated between women and men to assure comparability in programming.

(B) Vocational training for women shall include:

1. encouragement and training in non-traditional occupations comparable to that offered to men;
2. training which includes training in technical and skilled areas designed to lead to higher paying jobs upon release, as is provided to men;
3. training which includes both classroom and on-the-job components;
4. training designed to allow women to work in their acquired trades while still incarcerated;
5. training designed to lead to certification of acquired skills.

(C) Women who meet security requirements for community custody status shall be afforded opportunities to participate in community vocational education programs.

(D) Vocational training programs will include employment and placement counselling prior to release from incarceration.

(E) All women will be provided with vocational and aptitude testing and counselling.

(F) Women and men inmates working in Idaho correctional facilities will receive equal pay for equal work.

II. Education

(A) Women shall be afforded academic opportunities comparable to those afforded to men. All monies received for the purpose of providing such opportunities, including monies received from the federal government, will be fairly allocated between women and men to assure comparability in programming.

(B) Educational testing, evaluation and counselling shall be available to all women.

(C) GED preparation and testing shall be available to all women. Women also will be afforded the opportunity to participate in classes to achieve high school diplomas, as are men. Adult Basic Education will be available to all women.

(D) Should the opportunity to participate in college level courses or programs be provided to men, comparable opportunities will be made available to women.

(E) The Defendants agree to make good faith efforts to assure that educational programs are available to all women. Good faith efforts will be made to schedule programs at times outside working hours for women who have jobs. Women will have the same opportunity to complete programs as men.

III. Work Assignments

(A) Women shall be allowed to participate in a range of work assignments comparable to those of men, and for equal pay. The Defendants agree that women shall have the opportunity to engage in meaningful work.

(B) Opportunities to work in all areas of institutional maintenance will be provided to women of appropriate security classifications.

(C) Women who meet security requirements shall be allowed to participate in community work programs, as are men.

(D) Defendants agree to make good faith efforts to provide women with work assignments related to educational and vocational goals.

IV. Prison Industries

Women shall be afforded the opportunity to participate in prison industries programs comparable to those of men. Industries available to women shall be comparable in content, quality and earning potential to those of men.

V. Recreation

(A) Women shall be afforded a range of physical exercise and leisure time activities comparable to that of men. Adequate and appropriate supervision, instruction and equipment will be provided for such activities.

(B) Recreational programs will be scheduled to afford each woman the opportunity to participate regularly in physical exercise and leisure time activities.

(C) Religious activities shall not be restricted except by legitimate institutional necessity.

(D) Women who meet security requirements shall be allowed to participate in community recreational activities.

VI. Passes and Furloughs

(A) Regulations governing passes and furloughs shall apply system-wide without regard to gender. Women shall have equal access to passes and furloughs as men, as described in the attached appendix relating to passes and furloughs.

(B) The Defendants agree to make good faith efforts in the promulgation of policies regulating passes and furloughs to take into consideration the proximity of facilities to urban areas. Mileage restrictions shall take into account the need for all incarcerated persons to have access to relatively urban areas when released on passes or furloughs.

VII. Parole

(A) Policies and procedures regulating dress, transportation, counselling, housing and any other matters relating to the appearance of inmates before the parole board, shall be standardized and applied equally to all inmates regardless of gender, as described in the attached appendix relating to parole.

(B) Policies regarding the submission of information by Defendant's employees to the Parole Board shall be standardized and shall be applied without regard to gender.

VIII. Commissary

(A) Women will be provided equal access to the commissary and commissary items as men. Prices will be standardized system-wide.

(B) Profits from the commissary will go into the welfare and recreation fund for use in the facility in which the commissary is located.

IX. Telephone

Policies regarding the use of telephones shall be standardized to assure that women have equal access to telephones as men, as described in the attached appendix relating to telephones.

X. Mail

Policies regarding mail shall be standardized to assure that women have equal access to mail as men, as described in the attached appendix relating to mail.

XI. Personal Property

Policies regarding personal property, including photographs, shall be standardized to assure that women have equal access to property as men, as described in the attached appendix relating to personal property.

XII. Visitation

(A) Policies regarding visitation shall be standardized to assure women comparable access to visitation as men, as described in the attached appendix relating to visitation.

(B) The Defendants agree to make good faith efforts in scheduling visitation to accommodate women incarcerated at ICIO.

XIII. Physical Facilities

(A) Physical facilities will meet American Correctional Association (ACA) standards, as well as requirements of state law, in areas of health and fire safety. Regular inspections will be done by state health inspectors and fire marshalls.

(B) Food will be prepared and served in accordance with ACA standards and requirements of state law. Food will be adequate in quantity and nutritional content. Food will never be denied as punishment.

XIV. Medical, Dental, Psvchiatric and Psychological Services

Medical, dental, psychiatric and psychological services, including screening, testing, evaluation, counselling and preventive services will be provided in accordance with ACA standards. Women shall be provided services equal to those provided to men.

XV. Personal Hvgiene Supplies

Policies regarding the dispensing of personal hygiene supplies shall be standardized department-wide. Hygiene

supplies will be limited to those in the appropriate custody classifications. Women shall have supplies which are comparable to the men at the same custody classification.

XVI. Classification

(A) Defendants agree to promulgate and implement an objective, risk-based system of classification based upon rational, objective criteria. One system of classification shall be utilized system-wide without regard to gender, as described in the attached appendix relating to classification.

(B) Security classification shall be based upon the use of an objective behavioral evaluation instrument.

(C) Intra-institutional program classification shall be based upon rational, objective criteria. Defendants agree to implement a system-wide internal monitoring system to assure that classification decisions are based upon objective criteria. Re-classification of each inmate shall occur on a regular basis, and at least every six months. Defendants shall implement a system which allows women to petition for re-classification with regard to jobs, housing or program decisions.

(D) Classification shall be separate and distinct from the disciplinary system. Classification shall not be utilized as punishment.

(E) Women shall be afforded all due process protections including notice, hearing, presentation of evidence, and appeal in all classification decisions.

XVII. Discipline

(A) Disciplinary rules, regulations, policies and punishments shall be standardized system-wide without regard to gender, as described in the attached appendix relating to discipline.

(B) Defendants agree to implement an internal system-wide monitoring system to assure that women are treated equally to men with regard to disciplinary decisions.

(C) Women shall be afforded all due process protections including notice, hearing, presentation of evidence, confrontation and cross-examination of witnesses, and appeal in all disciplinary decisions, according to constitutional requirements.

XVIII. Grievance System

Defendants agree to promulgate and implement a meaningful, effective, standardized grievance system, as described in the attached appendix relating to the grievance system.

XIX. Staffing

Defendants agree to provide staff adequate in numbers and training to assure the safety and security of inmates. Qualifications, numbers, training and deployment of staff shall meet recognized standards of the ACA or National Institute of Corrections (NIC).

XX. Access to Counsel and Courts

(A) Women shall be provided with sufficient access to law library, legal materials, law clerks and lawyers to meet constitutional requirements.

(B) Women shall have access to lawyers by mail or telephone. Legal mail and telephone calls shall be privileged and confidential. Legal phone calls shall be made via the "blue phone" or through other means for collect calls.

(C) Women shall be afforded the opportunity for training and jobs as law clerks comparable to that provided to men.

XXI. Censorship

Women shall be afforded access to mail and publications free of censorship as required by constitutional law. In no case shall women be subjected to censorship more restrictive than that imposed upon men.

XXII. Good Faith

It is intent of the Department of Corrections to provide affirmative and positive programming as aids to rehabilitation. This agreement shall not be construed as an instrument that is intended to reduce the amount of services to male inmates.

BY DEFENDANTS:

Jim Jones
Attorney General
State of Idaho

Robert R. Gates
Robert R. Gates
Deputy Attorney General
Corrections Section

A. I. Murphy
Director of Corrections
State of Idaho

BY PLAINTIFFS:

Claudia Wright
Claudia Wright
ACLU National Prison Project

Stephen Pevar / cw
Stephen Pevar
American Civil Liberties Union

Randv Robinson
Howard Bellodoff
Idaho Legal Services

VI. INSTITUTIONAL PROGRAMS AND ACTIVITIES

DEPARTMENT OF CORRECTIONS	POLICY AND PROCEDURE MANUAL	SECTION NUMBER:	PAGE NUMBER:
		605	1 of 1
		SUBJECT: Policy for Release of Inmates on Furlough	

Policy of the Department

To provide the criteria and procedures whereby selected inmates may participate in the furlough program for the purposes of strengthening such family and community ties as the inmate may have; assisting the inmate in developing, preserving, and maximizing his financial and interpersonal ties; stabilizing responsible social attitudes and behavior; obtaining needed health services not otherwise available; handling emergency situations; and for other purposes consistent with the furtherance of an inmate's rehabilitation plan.

Procedure

1. An Administrator of an institution is authorized to grant furloughs in accordance with institutional rules and regulations and Idaho Code 20-101C to inmates who have a good behavior record, and are classified under minimum custody status. Each institution or facility shall have a specific furlough procedure. Furloughs granted under I.C. 20-101C shall be in accordance with statutory requirements. Furloughs may be granted for the following purposes:
 - a. Emergencies, including critical illness, death, emotional crisis, or similar situations in the inmate's immediate family.
 - b. Obtaining health services not available in any of the Department's institutions.
 - c. Seeking employment if:
 1. Specific job interviews have been arranged.
 - d. Setting residential plans for parole release.
 - e. Caring for business affairs in person when not doing so would cause depletion of an inmate's assets or resources so seriously as to affect his family or future economic security.
 - f. Family visits in order to strengthen or preserve relationships, exercise parental responsibilities, or prevent family division or disintegration.

(a) - passes and furloughs

**THE POLICIES AND PROCEDURES
OF
THE IDAHO COMMISSION FOR PARDONS AND PAROLE**

**which pertain to inmates
currently incarcerated in
The Idaho State Correctional Institutions**



**Revised
March 1, 1984**

- (b) - parole

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FORWARD

The Idaho Commission for Pardons and Parole is a five member board appointed by the Board of Corrections and confirmed by the State Senate.

Members serve five year terms as established by Idaho Code 20-210.

The Commission functions are delineated and restricted by the State Constitution and the laws of the State of Idaho.

The policies and procedures which follow have been established pursuant thereto. The Commission reserves the right to deviate from these normal procedures whenever it determines that extraordinary circumstances so warrant. The Commission additionally reserves the right to act at its discretion in circumstances not specifically outlined by its policy.

Following parole, pardon and commutation hearings, each county prosecuting attorney shall be informed of the action taken.

PART ONE - THE PAROLE PROCESS

Parole: A conditional release from a penal institution under a contractual agreement between the Commission for Pardons and Parole and a convicted felon. Parole is not a right but a privilege. The process regarding the granting or denial of parole is as follows:

I. The Primary Interview

- A. Every inmate will be interviewed by a Commissioner or representative of the Commission within six months after being received as a commitment to the Idaho Department of Corrections. Exceptions: 1) Any inmate with a sentence of three years or less will be given a Primary Interview at three (3) months; 2) Any inmate retained upon relinquishment of jurisdiction by the Court will be interviewed two months following retention.
- B. The purpose of the Primary Interview is:
 - 1. To establish the Commission's basic record.
 - 2. To introduce the inmate to the general orientation of the Commission.
 - 3. To make the inmate clearly aware of any sentencing restrictions.
 - 4. To establish the date for the inmate's initial appearance before the Commission.
- C. If, concurrently with a sentence restricted under Idaho Code 20-223 (Appendix 1), an inmate is serving another sentence for a crime not so restricted, the inmate will not be granted a parole appearance on the unrestricted sentence until he is eligible for parole on the restricted sentence.
- D. Where an inmate incarcerated in a facility in another State is eligible for a Primary Interview, the Commission may ask the administration of that institution to make arrangements which would enable a Commissioner or the Commission's representative to conduct this interview by long distance telephone rather than traveling to the institution where the inmate is incarcerated.
- E. An inmate who escapes prior to the Primary Interview will be scheduled for a Primary Interview within six (6) months after being returned to the custody of the Idaho Department of Corrections.
- F. Normally, an inmate shall not be considered by the Commission for parole until after the Primary Interview.

II. The Parole Hearing

A. The Scheduling

1. The Commission for Pardons and Parole will hold regular parole hearings and parole revocation hearings each month. These hearings will normally be conducted by a quorum of three Commissioners. The Commission hearing days in January, April, July and October are normally reserved for the consideration of pardon and commutation hearings by the full Commission, and parole consideration of inmates whose parole hearing is restricted by Idaho Code 20-223. (Appendix 1)
2. Unless otherwise restricted by Idaho Code 20-223, the length of time between parole hearings shall be based upon factors including, but not limited to, the length of maximum sentence, seriousness of the instant offense, extensiveness of the criminal record, and relative degree of rehabilitative progress. Any inmate whose next parole hearing is scheduled more than thirty (30) months in the future shall receive a jacket review no less frequently than every thirty (30) months.
3. At least thirty (30) days prior to the date of the scheduled hearing, a list of the names of the inmates scheduled for hearing in that month will be mailed or otherwise communicated to all district court judges, all prosecuting attorneys, and all sheriffs and chiefs of police in the State of Idaho.
4. No inmate is required to be present at his scheduled parole hearing, but will be afforded every reasonable opportunity to do so.
5. When an inmate is incarcerated in an institution other than the Idaho State Correctional Institution, the parole hearing may, and ordinarily will, be conducted either by telephone conference call with the Commission or by a Commissioner or representative of the Commission at the institution where incarcerated. If the hearing is conducted at the institution where the inmate is incarcerated, information from the hearing will be presented to the Commission during its regularly scheduled hearing at which time a decision to grant or deny parole will be made.

B. The Parole Hearing

1. The Commission invites and encourages the inmate's correctional counselor to be present at his parole hearing. No witness on behalf of a parole applicant will be allowed to testify at parole hearings unless the Commission has reason to believe that he can provide important information which can be obtained in no other way. Representatives and witnesses must be scheduled through the Executive Secretary at least five (5) days prior to the day on which the hearing is scheduled.
2. Staff members, other than the inmate's correctional counselor, will not be heard except upon approval or invitation of the Commission.

C. The Decision

1. The granting of a parole depends exclusively upon the discretion of the Commission for Pardons and Parole. In general, a parole is granted

only when, in the judgement of the Commission, an inmate, otherwise eligible, will be thought likely to avoid further violation of the law and live as a good citizen. The Commission evaluates each case upon its individual merits and acts to grant or deny release on parole as its best judgement dictates.

2. The Commission has established criteria to be used in parole consideration. These criteria are frequently reviewed by the Commission and fall within certain general areas. They pertain to:
 - a. The seriousness and aggravation/mitigation involved in the crime for which subject is incarcerated.
 - b. Official reports regarding the extent of subject's criminal career.
 - c. Failure or success of past probation or parole.
 - d. Institutional adjustment and ability to conform to established rules and procedures.
 - e. Involvement in available programs that are likely to assist subject after release.
 - f. Evidence of the development of a positive social attitude and a willingness to fulfill the obligations of a good citizen.
 - g. Official reports of exceptional conduct, involvement in institutional disorder or the exploitation of other inmates.
 - h. The strength and stability of the proposed parole plan.
 - i. Reports of physical, mental or psychiatric examinations.

The Commission may also consider recommendations and information from other sources such as institutional staff, judges, prosecuting attorneys, law enforcement officials, defense attorneys and family, so long as the information is related to specific facts relevant to the proceedings.

3. Regarding the inmate's parole plan: The two main stipulations are that the inmate shall have adequate arrangements for employment or maintenance and care and an adequate home placement. The adequacy of employment and home placement are determined by a parole officer in a pre-parole investigation. Inmates with particular problems (such as alcoholism, incapacitating physical disorder, etc.) may be paroled to some facility in which care will be provided. An educational program may be considered as adequate "employment", provided that the parole applicant presents evidence of ability to complete successfully, work at that academic or vocational level, and provided that evidence of adequate funding is presented.
4. A decision to grant or to deny a parole must be made by a majority of the five members of the Commission. If, at a regular hearing, the vote of the three Commissioners is not unanimous, the case will be continued to a time when a sufficient number of Commissioners are present to obtain a majority vote of the full Commission.

5. Once the Commission has made its decision, the inmate will not be permitted to present additional arguments.
6. If an inmate is involved in a major disciplinary rule infraction after a parole or final release date has been granted but before being released, the release will be postponed and the circumstances of the rule infraction reported to the Commission at the inmate's jacket review prior to release. If the case had already been jacket reviewed, the Commission will review the circumstances at its next scheduled meeting. The Commission may: (1) reinstate the parole or release date; (2) suspend the parole or release date until the inmate is ninety (90) days disciplinary free; or (3) rescind the parole or release date granted and schedule another parole hearing.
7. An inmate who is convicted of either a misdemeanor or felony crime committed in the institution should expect to be required to serve one-third (1/3) of the time remaining until the goodtime release date of the sentence being served at the time the crime was committed, or five (5) years, whichever is the least, before receiving consideration for discharge or parole.
8. If, after a parole or final release date has been granted but before an inmate is released, the Commission receives additional information concerning the inmate which might reasonably have resulted in a parole or release date not being granted at a prior hearing, the Commission may cancel the date granted and schedule another parole hearing.

D. Escape Policy

This policy requires the inmate to serve one-third (1/3) of the time remaining until the goodtime release date of the sentence being served at the time of the escape, or five (5) years, whichever is the least, before receiving consideration for discharge or parole.

1. When an inmate is found by the Institution's Adjustment Committee to have violated the Institution's rules by escaping, or by attempting or conspiracy to escape, and, for any reason, is not charged with the crime of Escape, he/she may be regarded by the Commission as having escaped, and its escape policy may be applied.
2. If an inmate escapes from the custody of the Idaho Department of Corrections and subsequently is incarcerated in another state correctional facility, the Commission authorizes the sentence being served at the time of escape to recommence on the date of adjudication and/or dismissal of the escape charge by the Idaho judicial authorities.

E. Parole to a Detainer

The policy of the Commission with regard to parole to detainees is, in general, in accord with the principles recommended by the Association of Administrators of the Interstate Compact for the Supervision of Parolees and Probationers.

1. The status of detainees held against prisoners in institutions shall be investigated, insofar as is reasonably possible, prior to a parole hearing.

2. If, at the time of the parole hearing, a valid detainer has been lodged against an inmate, the Commission will grant parole to such detainer only if the status of that detainer has been investigated and parole is deemed appropriate.
3. If, prior to the inmate's release, it is learned that the detaining jurisdiction will not exercise its detainer, the parole will be regarded as null and void, and the subject must return before the Commission for further consideration.

F. Consecutive Sentences

When an inmate has two or more sentences to be served consecutively, the first of the consecutive sentences will be considered as a single sentence with little regard for sentences remaining to be served at the time of the parole decision. In other words, an inmate serving the first of consecutive sentences ordinarily will not receive a final discharge from his first sentence any more quickly than he would be paroled if this were the only sentence being served.

G. Fixed Term Sentences

Inmates convicted and sentenced with Fixed Term sentences are not eligible for parole consideration and will not receive a parole hearing on these sentences (Appendix 3).

H. Self-Initiated Parole Hearings

The Idaho State Correctional Institution enables inmates to earn work credits, and had provided for exchange of work credits for a Self-Initiated Progress Report. Very few hearings are granted, and generally, only when the circumstances have changed significantly since his/her last parole hearing.

1. Inmates requesting a Self-Initiated Parole Hearing must have had their initial hearing before the Commission.
2. Inmates who wish a Self-Initiated Parole Hearing will notify their counselor, who will provide them with form "Self-Initiated Progress Report." When the form is completed by the inmate and returned to the counselor, the counselor will sign the form, forward it to the Commission, and insure work credit expenditure is entered in the inmate's central file.
3. The Commission will review the Self-Initiated Progress Reports only during its January, April, July and October meetings.
4. If, after considering the Self-Initiated Progress Report, the Commission grants a special parole hearing, the inmate will not be required to exchange work credits in addition to those used for the progress report. Additionally, the date for the regularly scheduled parole hearing will not be affected.
5. An inmate will be permitted only one special parole hearing in any calendar year.

III. Parole Release

A. Following the granting of a parole, the following process begins:

1. The inmate's correctional counselor submits a "half-sheet" to the Commission. This is a form which contains the details of the parole plan. Counselors will not submit "half-sheet" forms any earlier than ninety (90) days prior to the tentative parole date for out-of-state plans, and no earlier than thirty (30) days for Idaho plans.
2. When the plan is submitted, the Commission secretary compiles a packet of basic data and sends it to the district office of the Division of Probation and Parole near where the inmate wishes to serve parole. If the inmate has been granted an out-of-state parole, the packet is sent through the Interstate Compact to that state.
3. When the packet is received in the district office, it is assigned to a parole officer who will investigate the plan. In Idaho this investigation is usually completed within two weeks from the day it is received in the district office. For an out-of-state plan, sixty (60) days or longer may be required to complete the investigation.
4. While the plan is being investigated, the inmate is required to attend Parole School. This is a period of instruction on the obligations of being a parolee. An inmate who is being paroled to a detainer is not required to attend.

B. Upon being granted a parole, the inmate is required to enter into an agreement with the Commission to adhere to a set of standard rules and regulations. The Commission, at its own discretion, or upon recommendation of the habilitation staff or the parole field staff, may add additional regulations in specific cases. The inmate will be given a copy of the conditions of parole.

1. A parole release will not be granted until the inmate has attended a period of instruction in which the substance and implications of the standard parole rules and regulations will be thoroughly explained.
2. Except in very unusual circumstances, described below, the inmate who is granted parole will receive supervision from a parole officer. Upon release from the institution, the parolee will receive instructions about where and when to report to the parole officer. Unless a waiver is received from the Commission in writing, parolees are to report to their designated parole officer within twenty-four (24) hours of release to an Idaho plan, or seventy-two (72) hours to an out-of-state plan.
3. Every inmate supervised in the State of Idaho will be assigned to Class A parole supervision status. A parolee with this status is carried on the case load of a parole officer and reports to that officer as instructed. There are three levels of supervision, ranging from frequent personal interviews to infrequent reporting by mail. The parolee's level of supervision will be determined by the parole officer and/or the District Manager of that parole district.

4. An inmate granted a parole to an out-of-state plan will normally be assigned Class A parole supervision status. The degree of supervision will be determined by the policies of the parole division of that state.

a. A parolee who is receiving Class A supervision in another state is to follow the procedures prescribed by the parole division in that state.

5. In very unusual circumstances an inmate granted a parole to an out-of-state plan may be placed on Class B parole supervision status (formerly called "unsupervised parole"). An inmate who is granted Class B status is given a set of monthly report forms upon leaving the institution. These are to be filled out at the beginning of each month and sent to the Executive Secretary of the Commission. Any change of address is to be reported immediately to the Executive Secretary. During the time on parole, the Executive Secretary will, on a random basis, request a report from the National Criminal Identification Center to determine if there have been any unreported arrests.

a. A parolee who is serving parole outside of Idaho on Class B status and then returns to Idaho must report to the parole office nearest his/her place of Idaho residence or temporary lodging within seventy-two (72) hours. If permanent residence in Idaho is intended, the parolee will be placed on Class A status and a parole officer will be assigned.

6. Whenever any person committed to the custody of the State Board of Corrections shall have been granted a parole, it shall be the duty of the Records Office to transmit a copy of the parole agreement and information as to the parolee's place of residence to the Prosecuting Attorney of the appropriate county.

IV. Discharge from Supervision

- #### A. The Idaho Code specifies that an inmate released on parole will remain on parole for a minimum of one year, except that he cannot be kept under the custody of the Board of Corrections beyond his statutory release date.

1. At the end of one year, the supervising parole officer may recommend to the Commission either that the period of parole supervision be extended or the parolee be discharged.

2. An inmate paroled from a sentence for a crime specified in Idaho Code 20-223 will be required to serve a minimum period of time on parole equal to one-third (1/3) of the time remaining until the maximum expiration date, or five (5) years, whichever is the least, before being eligible for a final discharge from custody. At the end of the minimum period of parole supervision, the supervising parole officer may recommend to the Commission either that a final discharge from custody be granted, or that the period of parole supervision be extended.

3. A parolee on Class B parole may, without a parole officer's recommendation, request discharge from supervision according to the above guidelines.

4. A parolee's statutory release date is the maximum full-term expiration date minus the good time accumulated during incarceration.

PART TWO - PARDON AND COMMUTATION

The Commission meets on designated dates in January, April, July and October to consider applications for pardon and applications for commutation of sentence.

I. Pardon

A pardon may be granted to persons who have been convicted of a crime as defined under Idaho Statute and who are able to demonstrate successful citizenship within a community, and who can demonstrate the need or advantages that a pardon will have for them. The following policies will apply:

- A. In the absence of some unusual and compelling reason warranting a reduction of the time period, the Commission will not consider a pardon application until the applicant has demonstrated a minimum of three years of successful citizenship in the community after release from the legal custody of the Idaho Department of Corrections. An applicant who was convicted of a crime of violence or crime against the person must demonstrate a minimum of five years of successful citizenship in the community after release from the legal custody of the Idaho Department of Corrections.
- B. Upon receiving a pardon application which meets the time requirements specified above, the Commission will:
 1. Instruct the applicant to provide letters of recommendation from responsible community leaders.
 2. Request, in writing, from the parole agency within whose bounds the applicant lives, an investigation to provide data pertaining to his law-abiding behavior.
 3. Request the appropriate law enforcement agency to conduct a review of central records which would reveal any recorded law violations which may have occurred since his release from custody.
- C. When all data have been received, the applicant will be notified as to the date and place of the next meeting of the Commission. It is not mandatory that a pardon applicant appear before the Commission for a formal interview. However, if there are ambiguities or inconsistencies in the data which the Commission believes would be clarified if the applicant were to be questioned, he may be asked to appear at a succeeding meeting of the Commission.

II. Commutation of Sentence

The clemency powers which are granted to the Commission for Pardons and Parole by the Constitution enable the Commission to commute sentences either by reducing the time of maximum sentence or otherwise modifying conditions imposed by the sentencing jurisdiction.

There are two steps in the process of applying for a commutation of sentence. The first step is the petition, and the second is the hearing.

A. The Petition

1. A petition for commutation of sentence should be on a form supplied by the Commission and include the reasons why the inmate believes the circumstances are so extraordinary that the Commission should consider commuting his sentence.

Commutation must be requested in writing by the inmate himself and the petition signed by the inmate; however, the Commission reserves the right to consider a commutation absent petition by the inmate where the Commission feels circumstances warrant such action.

2. The Commission will read and consider commutation petitions at its January, April, July and October meetings. Within one month thereafter the petitioner will be notified by mail of the Commission's decision whether to deny or grant a hearing on the petition; however, in any particular instance, the Commission may postpone a petition for any length of time pending accumulation of additional information. If the petition is approved, the petitioner will be notified of the month the commutation hearing will be held. The mere granting of a hearing on a petition should not be interpreted as an intent of the Commission to commute a sentence.
3. Petitions must be received in the Commission's office no later than the first of the month it is to be considered. Petitions received after the first of the month will be held for review by the next full Commission month, (January, April, July or October).
4. Inmates may not submit more than one petition in any 12-month period. In the absence of extraordinary circumstances, a petition may not be submitted until an inmate has served at least one year of the sentence in the institution or a similar institution to which he might have been transferred from this institution.
5. The petition may include written representations on behalf of the petitioner. The petition will be considered by the Commission without a hearing.
6. It is the belief of the Commission that only very rarely will a set of circumstances be extraordinary enough for the Commission to approve a petition. It is impossible for the Commission to specify with any precision what these circumstances might be. Additional information provided by district court officers, or an unusual contribution by the inmate to the maintenance of order in the Correctional Institution could be regarded favorably. Habilitative progress by itself will not generally be regarded as sufficient to justify the approval of a petition.
7. It is suggested, but not required, that all petitions be submitted through the counselor as it is a complex document and their guidance may be beneficial.

B. The Hearing

1. When a petition for a commutation hearing is approved, the hearing shall be scheduled for the next full Commission meeting (January, April, July, or October).
2. Policies and procedures governing the conduct of a parole hearing will apply to commutation hearings.

C. Fixed Term and Mandatory Minimum Sentences

1. It is the general policy of the Commission that fixed term or mandatory minimum sentences will not be commuted absent acquiescence or stated lack of objection by the sentencing judge or court. If a petition for commutation of a fixed term or mandatory minimum sentence is approved for a hearing, the Commission will notify said court that commutation will not be granted unless acquiescence or lack of objection is received in writing from the court.

PART THREE - PAROLE REVOCATION

I. The Official Notification

- A. When it appears to the supervising parole officer that a parolee is in violation of his parole, a Report of Violation will be prepared and submitted to the Commission. If, after examining the facts reported in the Report of Violation, it is believed that such action is indicated, a Warrant of Arrest will be issued.
- B. If, following the receipt of a Report of Violation, the Commission issues a Warrant of Arrest, the parolee's final release date is suspended and he is regarded as a fugitive from justice.
- C. If the alleged violator has absconded from supervision, or otherwise has become a fugitive, the Warrant for his arrest may be reported to the National Criminal Identification Center.
- D. Within fifteen (15) calendar days following his arrest and detention on a Commission Warrant, a parole officer, law enforcement official or representative of the Commission will deliver to the alleged violator a copy of the Report of Violation. At this same time the parole officer will explain the Commission's policy, and will present forms on which the parolee will indicate which rights he wishes to waive, and those he wishes to exercise.
- E. A parolee who is alleged to have violated his parole will normally, upon return to the Idaho State Correctional Institution, be given a hearing before the Commission at its next regular meeting.

II. The Preliminary Hearing

- A. Every parolee who is arrested on a Commission Warrant and charged with a violation of his parole on some ground other than a conviction for a new crime or by having absconded, may receive a Preliminary Hearing to determine if there is probable cause to believe that an act which would constitute a violation of the parole agreement has been committed.
- B. In the case of a parolee alleged to have violated parole by being convicted of a new crime or by having absconded, probable cause is established with the Judgement of Conviction or by the parolee's absence from his/her proper place of supervision and no Preliminary Hearing need be held.
- C. The Preliminary Hearing will ordinarily be conducted by a parole officer, in the vicinity, who has not been directly involved with the supervision of the alleged violator.
- D. At the Preliminary Hearing the parolee may, with reference to the facts of the alleged violation:
 1. Be represented by an attorney at the parolee's expense.
 2. Appear and speak in his own behalf.
 3. Bring letters, documents, or individuals who can give relevant information to the hearing officer;

4. Question persons who have given adverse information on which parole violation allegations are based unless the hearing officer determines that the identification of such informant would subject the informant to risk of harm.
- E. If, at the Preliminary Hearing, the hearing officer concludes that there is probable cause to believe that the parolee is in violation of the parole agreement, the Commission shall immediately be informed of that decision and of the reasons for the determination and the evidence relied on. If probable cause is not established, the parole is reinstated without penalty.
- F. The hearing officer, at the Preliminary Hearing, will make a tape recording of the entire proceeding. At the conclusion of the hearing he/she will prepare a written summary of the proceedings, including the statement specified in the paragraph above. These, along with any documents presented in evidence, shall be sent to the Commission.
- G. An alleged parole violator may waive his right to a Preliminary Hearing. Following such waiver, a hearing will be scheduled before the Commission at the Idaho State Correctional Institution; or an On-Site Parole Revocation Hearing may be requested if the parolee is eligible under Idaho Code 20-229A.
- H. When a parolee serving his parole in another state is arrested on a Commission Warrant in that state and a Preliminary Hearing is requested, the Commission may make one of the following provisions for that Preliminary Hearing:
 1. Request an officer of the parole agency in that state to conduct the Preliminary Hearing;
 2. Request that an officer sent by Idaho's Division of Probation and Parole conduct the Preliminary Hearing at the place of arrest.

II. The On-Site Parole Revocation Hearing

- A. The Idaho Code provides that a parolee who is alleged to have violated his parole on grounds other than a conviction for a new crime or absconding supervision, may request that a revocation hearing be held reasonably near the site of the alleged violation.
- B. The On-Site Hearing will be held within thirty (30) days from the time that the alleged violator is served with the Report of Violation following his arrest and detention.
- C. When an alleged parole violator requests an On-Site Parole Revocation Hearing, the Executive Secretary, or the chairman of the Commission, will determine the place of the hearing. If more than one violation is charged, the hearing is to be near the place of violation chiefly relied upon as the basis for issuance of the Commission's Warrant. The Executive Secretary will advise the alleged violator of the time and place of the hearing. If necessary, the parole staff in that district will transport the alleged violator to the place of the hearing.
- D. Ordinarily the On-Site Parole Revocation Hearing will be conducted by a Commissioner, or the Commission's appointed hearing officer.

- E. At the On-Site Parole Revocation Hearing, the decision will be rendered within twenty (20) days of the date of the On-Site Hearing.
- F. The On-Site Parole Revocation Hearing will be recorded or reported. The transcript of the hearing will ordinarily be retained for only six (6) months.
- G. Where the alleged violation took place in another state, and the designated hearing officer finds probable cause, the parolee may request that an On-Site Parole Revocation Hearing be conducted. This request must be accompanied by a letter from the alleged violator stating why he believes that an On-Site Parole Revocation Hearing is warranted. The decision whether to grant an On-Site hearing will be at the discretion of the Commission.
- H. The rules as stated below (B, C, D) apply also to the On-Site Parole Revocation Hearing.

IV. The Parole Revocation Hearing

- A. If an alleged parole violator is not eligible for an On-Site Parole Revocation Hearing, or if he waives that right, he will be returned to the correctional institution as soon as practicable for a Parole Revocation Hearing before the Commission at its monthly meeting. Unless the alleged violator requests a continuance, as specified below, the period of time between his receipt of the Report of Violation and the Parole Revocation Hearing at the correctional institution will not exceed forty-five (45) days.
- B. A parolee whose Parole Revocation Hearing is being conducted by a Commissioner, or the Commission's appointed hearing officer, at an On-Site Parole Revocation Hearing, or by the Commission at the correctional institution, will be given the opportunity to present witnesses and documentary evidence relating to the alleged parole violation. If the alleged violator desires witnesses, the hearing will be postponed for a reasonable time for the purpose of obtaining witnesses. Any witness presented by the alleged violator must be approved by the hearing officer to assure that the witness will present information actually pertaining to the allegations or mitigation. Witnesses, when not giving testimony, will ordinarily be excluded.
- C. If the alleged violator desires to be represented by an attorney, it must be at the parolee's expense except under the following circumstances: if the alleged violator presents proof of indigency; and (a) there is a timely and colorable claim that the alleged violation of the conditions of parole was not committed; or (b) there is a timely and colorable claim that, although there has been a violation of the parole agreement, there are substantial reasons which justified or mitigated the violation and make revocation inappropriate, and that the reasons are complex or otherwise difficult to develop or present. If the Commissioner, or the Commission, believes that it is warranted within the above criteria, an attorney will be provided for the alleged violator at state expense; and the Parole Revocation Hearing will be delayed for a reasonable time to allow the alleged violator to obtain counsel. If the request for counsel is refused, the grounds for refusal will be stated for the record.
- D. A Parole Revocation Hearing is not a strict judicial procedure. It is a process flexible enough to consider evidence not normally admissible in an

adversary criminal trial. Furthermore, it is not required that the alleged violation be proven beyond a reasonable doubt; rather, if there is a preponderance of evidence that parole has been violated, the Commissioner or Commission conducting the hearing may so rule.

- E. Persons serving a parole granted by the Idaho Commission for Pardons and Parole who are convicted of an offense in another state and who are serving a sentence in that other state may receive a Parole Revocation Hearing in absentia.

Appendix 1

Idaho Code 20-223. Parole, rules and regulations governing - Restrictions - Psychiatric or psychological examination.

"The Commission shall have the power to establish rules, regulations, policies or procedures in compliance with chapter 52, title 67, Idaho Code, under which any prisoner, excepting any under sentence of death, may be allowed to go upon parole but to remain while on parole in the legal custody and under the control of the board and subject to be taken back into confinement at the direction of the commission; provided, however, that no person serving a life sentence or serving a term of thirty (30) or more years shall be eligible for release on parole until he has served at least ten (10) years and no person serving a lesser sentence for any of the following crimes; homicide in any degree, treason, rape by force or threat of bodily harm, incest, crime against nature, committing a lewd act upon a child, robbery of any kind, kidnapping, burglary when armed with a dangerous weapon, or with an attempt or assault with intent to commit any of said crimes, or as an habitual offender, shall be eligible for release on parole until said person has served a period of five (5) years or one-third (1/3) of the sentence, whichever is the least. The provisions of this section shall affect only those persons who are sentenced on or after the first day of July, 1980, and are not intended to repeal or amend sections 19-2513A, 19-2520A, Idaho Code.

"No person serving a sentence for rape, incest, committing a lewd act upon a child, crime against nature, or with an intent or an assault with intent to commit any of the said crimes or whose history and conduct indicate to the commission that he is a sexually dangerous person, shall be released on parole except upon the examination and evaluation of one or more psychiatrists or psychologists to be selected by the commission and such evaluation shall be duly considered by the commission in making its parole determination. The commission may, in its discretion, likewise require a similar examination and evaluation for persons serving sentences for crimes other than those above enumerated. No psychiatrist or psychologist making such evaluation shall be held financially responsible to any person for denial of parole by the commission or for the results of the future acts of such person if he be granted parole.

"Before considering the parole of any prisoner, the commission shall afford the prisoner the opportunity to be interviewed. A parole shall be ordered only for the best interests of society, not as a reward of clemency and it shall not be considered to be a reduction of sentence or a pardon. A prisoner shall be placed on parole only when arrangements have been made for his employment or maintenance and care, and when the commission believes the prisoner is able and willing to fulfill the obligations of a law-abiding citizen. The commission may also by its rules, regulations, policies or procedures fix the times and conditions under which any application denied may be reconsidered." (I.C., 20-223, as added by 1980, ch. 297, 6, p. 768).

Appendix 2

Idaho Code 19-2520. Sentence for use of firearm or deadly weapon.

"Any person convicted of a violation of sections 18-905 (aggravated assault defined), 18-907 (aggravated battery defined), 18-909 (assault with intent to commit a serious felony defined), 18-911 (battery with intent to commit a serious felony defined), 18-1401 (burglary defined), 18-2501 (rescuing prisoners), 18-2505 (escape by one charged with or convicted of a felony), 18-2506 (escape by one charged with or convicted of a misdemeanor), 18-2703 (resisting officers), 18-4003 (degrees of murder), 18-4006 (manslaughter), 18-4015 (assault with intent to murder), 18-4501 (kidnapping defined), 18-4604 (grand larceny defined), 18-5001 (mayhem defined), 18-6101 (rape defined), or 18-6501 (robbery defined), Idaho Code, who displayed, used, threatened, or attempted to use a firearm or other deadly weapon while committing the crime, shall, in addition to the sentence imposed for the commission of the crime, be imprisoned in the state prison for not less than three (3) nor more than fifteen (15) years. Such additional sentence shall run consecutively to any other sentence imposed for the above cited crimes.

"For the purposes of this section, 'firearm' means any deadly weapon capable of ejecting or propelling one or more projectiles by the action of any explosive or combustible propellant, and includes unloaded firearms and firearms which are inoperable but which can readily be rendered operable.

"The additional terms provided in this section shall not be imposed unless the fact of displaying, using, threatening, or attempting to use a firearm or other deadly weapon while committing the crime is separately charged in the information or indictment and admitted by the accused or found to be true by the trier of fact at the trial of the substantive crime; provided, however, that the prosecutor shall give notice to the defendant of intent to seek an enhanced penalty at or before the preliminary hearing or before a waiver of the preliminary hearing, if any.

"This section shall apply even in those cases where the use of a firearm is an element of the offense." (I.C., 19-2520, as added by 1977, ch. 10, 1, p. 20; am. 1980, ch. 296, 1, p. 767; am. 1983, ch. 183, 1, p. 496.)

Appendix 3

19-2513A. Alternative fixed term sentence.

"As an alternative to an indeterminate sentence for any person convicted of a felony, the court, in its discretion, may sentence the offender to the custody of the state board of correction for a fixed period of time of not less than two (2) years and not more than the maximum provided by law for said felony. [I.C. § 19-2513A, as added by 1977, ch. 243, § 1, p. 720.]"

Appendix 4

20-213. Meetings as state commission of pardons and paroles - Notice, publication, contents.

"The commission shall meet at such times and places as it may prescribe, but not less than quarterly. If applications for pardon or commutation are scheduled to be considered at such meeting, notice shall be published in some newspaper of general circulation at Boise, Idaho, at least once a week for four (4) consecutive weeks, immediately prior thereto. Such notices shall list the names of all persons making application for pardon or commutation and a copy of such notice shall immediately, upon the first publication thereof, be mailed to each prosecuting attorney of any county from which any such person was committed to the penitentiary, and provided further that the commission may in its discretion consider but one (1) application for pardon or commutation from any one (1) person in any twelve (12) month period." [1947, ch 53, § 13, p. 59; am. 1951, ch. 118 § 1, p. 273; am. 1969, ch. 419, § 2, p. 1160; am. 1980, ch. 297, § 1, p. 768.]

V. FACILITIES MANAGEMENT

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		503	1 of 1
		SUBJECT:	Use of Telephones by Inmates

Policy of the Department

The Administrator of each institution shall formulate the rules and procedures for inmate use of telephones.

Procedure

1. Each institution Administrator shall formulate rules and procedures governing the frequency, length, and permitted hours for inmate telephone calls.
2. All inmate telephone calls, whether personal or business, outside or intra-institutional, may be monitored unless involving legal business between attorney and client.
3. Inmate initiated calls must be placed collect.

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Policy of the Department

It is the policy of the Idaho Board of Correction that the Department of Corrections will provide supportive services to inmates in an equitable and fair manner. Services are important in the care and treatment of inmates and can assist in the rehabilitative process.

Reference

Standards for Adult correctional Institutions, Second Edition. Standards 2-4022, 2-4226, 2-4338, 2-4369, and 2-4370 thru 2-4378.

Pell v. Procunier, 417 U.S. 817 (1974).

Bell v. Wolfish, 441, U.S. 520, 528, n.9, 99 S. Ct. 1861, 1868, n.9, 60 L. Ed. 2d 447 (1979).

Procunier v. Martinez, 416 U.S. 396, 413, 94 S. Ct. 1800, 1811, 40 L. Ed. 2d 224 (1974).

Miller v. California, 392 U.S. 616 (1968); 413 U.S. 15 (1973).

Starseth v. Spellman, 354 F.2d 1349 (1981).

Definitions

1. "General Correspondence" means incoming or outgoing correspondence other than "privileged mail." This also includes packages sent through the mail.
2. "Privileged Mail" means correspondence sent to or received from individuals identified in 2.B.(1) pages 6 and 7.
3. "Contraband" is defined as items in the following categories as well as any other items prohibited by Departmental policy or by federal or state statutes:
 - A. Items, including money, concealed in letters, cards or packages that are not readily seen by the mail handler.
 - B. Items not allowed per the Department's Personal Property Regulations.
 - C. Items other than those identified as "authorized items" below.
 - D. A package received without prior authorization.

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- E. Cards containing musical devices which must be damaged to be inspected properly.
- 4. "Authorized Items" are defined as those items allowed to come in through the mail excluding packages. They are as follows:
 - A. Postage Stamps (limited to 20) and cash - The Department assumes no responsibility for these items.
 - B. Pictures - except those instant photos with layers.
 - C. Money orders or cashier's checks (no personal or two-party checks).

Procedures

Inmate mail privileges are an important factor in successful inmate adjustment to institutional life. It is important that each inmate be allowed to communicate with family and friends, and have the opportunity to benefit from information, ideas, and concepts originating outside the institution. Individuals violating this policy may be subject to disciplinary action. Individuals tampering with or in any way violating federal postal regulations may be subject to federal prosecution. Inmate mail regulations and procedures for processing inmate mail are as follows:

1. Mail Regulations

- A. Each inmate will be allowed unrestricted correspondence privileges in accordance with the guidelines presented below. Should the inmate violate or disregard these guidelines, he/she may be placed on a restricted correspondence list.
- B. Guidelines for Inmate Correspondence.
 - (1) Zip codes and the inmate's name, number and correctional facility address must appear on all outgoing mail. If the sender can be identified, but the return address is incomplete or inappropriate, the mail will be returned to the sender for proper addressing. If the sender cannot be identified in the return address, the mail will be destroyed.
 - (2) Inmates are prohibited from including anything of a threatening nature, contraband and/or anything that indicates plans for escape or illegal activity in their correspondence.
 - (3) Inmates are prohibited from directing business operations and from engaging in business correspondence except that necessary to protect their property or close out a business.

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- (4) Inmates may not solicit or accept any publication which has not been paid for in advance, or order any material, the order of which is contingent upon future orders. All orders for publications shall be made directly to the publisher of the material, or to a legitimate book store.
- (5) Correspondence with inmates in other correctional facilities is permitted if the persons are immediate family members, i.e. spouse, natural or surrogate parents, their children or siblings. Inmates may correspond with inmate law clerks for assistance with legal research. Such correspondence shall be considered non-privileged.
- (6) All other correspondence between inmate to inmate or inmate to probationer/parolee will be allowed only with the permission of both of the facility heads or the facility head and the field service manager. This correspondence must be sent unsealed. Permission will normally be granted; however, any denial may be grieved through the Department's grievance procedure.
- (7) Photographs may not be included in outgoing correspondence unless approved by the facility head or designee.
- (8) No inmate will be permitted to receive compensation or anything of value for material submitted to the news media.

C. Restricted Correspondence List

- (1) If an inmate violates or abuses mail guidelines or it is determined that the inmate's correspondence may be a threat to the community or institutional security, his name may be placed on the restricted correspondence list by the facility head upon the issuance of a disciplinary offense report and a finding of guilty.
- (2) The restricted correspondence list for each facility will be reviewed by the facility head on a monthly basis. All incoming and outgoing mail will be reviewed until the inmate is released from the restricted correspondence list by the facility head. Each facility shall establish procedures for the review of restricted mail. Inmates will be notified in writing when it is determined that the conditions which originally placed him/her on the restricted correspondence list no longer exist.

D. Inmates on restrictive housing status have the same correspondence privileges as other inmates.

E. Inmates without sufficient funds for postage in their trust fund account will be provided paid postage for one letter per week. Mail addressed to courts or

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attorneys of record will be sent for inmates with no funds on their trust fund. This will be in addition to the one free letter.

- F. Soft or hard bound books and magazines may be received directly from a publisher or a legitimate bookstore only.
- G. All books, magazines, photographs and other publications which are received in the inmate mail will be examined to determine whether they would present a clear and present danger to institutional order, security, discipline or to the rehabilitative progress of the addressee or is obscene. Questionable publications shall be delivered to the facility head or his/her designee.

The facility head or designee shall review the publication and determine whether the publication presents a clear and present danger to institutional order, security, discipline or the rehabilitative progress of the addressee or is obscene.

- (1) If the facility head or designee determines that the publication should not be withheld, he/she will forward it to the inmate within 24 hours of receipt from the mail room.
 - (2) Should the facility head or designee determine that the material should be withheld, he/she will notify the inmate in writing within 24 hours that it is being withheld.
 - (3) This written notice shall contain a brief description of the material in question along with a brief statement of the facility head's or designee's reasons for recommending that the publication be rejected.
- H. The Department does not allow into correctional facilities any obscene material -- magazines, books, photos, movies, cassettes, etc. Specifically, any material which contains a visual, oral or written depiction of any actual physical contact with the sexual organs of a person or persons by another person or persons will be withheld from the inmate population.

The Department, further, reserves the right to withhold from the inmate population non-obscene materials -- magazines, books, photos, movies, cassettes, etc., which, in the conclusion of the Department, present a risk of adverse impact on the security or rehabilitative goals of the state correctional facilities. Such materials would include, but not necessarily be limited to, materials which

- (1) describe how to build or obtain weapons of any kind;
- (2) describe how to manufacture or obtain any drugs or intoxicants;

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- (3) describe plans of escape or how to plan or execute an escape;
- (4) describe or show actual physical contact with the sexual organs of a person by another person or persons.
- (5) glorify or encourage criminal acts, drug usage, illicit sexual acts, violence, insurrection, disobedience, riot or escape.

I. Any inmate who violates U.S. Postal Regulations or Departmental mail regulations will be subject to prosecution or disciplinary action by appropriate authorities.

2. Procedures for Processing Mail

A. General Mail

- (1) All outgoing mail sent by inmates that is not privileged, is subject to being opened, inspected and read for enforcement of inmate correspondence guidelines and institutional security where reasonable belief exists that said mail may present a danger to the orderly running of the institution.

Should mail be found to violate inmate correspondence guidelines, a disciplinary offense report shall be issued and a hearing held to determine the inmate's guilt or innocence. If found guilty, the inmate may then be placed on the restricted correspondence list.

- (2) All incoming general mail and packages that are not privileged will be opened, inspected for contraband and may be read for enforcement of inmate correspondence guidelines and institutional security. Should mail be found to violate inmate correspondence guidelines a department offense report shall be issued and a hearing held to determine the inmate's guilt or innocence. If found guilty, the inmate may then be placed on the restricted correspondence list.

- (a) Packages will not be allowed except at specified periods of the year as announced by the facility head.

- (b) Unauthorized items of value must be returned to the sender at the inmate's expense within 45 days or the items will be donated to a charitable organization. The inmate will be given a receipt for any contraband seized with an explanation of why the item was seized. It shall be the inmate's responsibility to notify the sender.

- (c) When contraband is seized and it appears there has been an intentional

IV. OPERATIONAL SERVICES

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	SUBJECT: Effective 5-1-84 Inmate Mail Regulations and Procedures for Processing Inmate Mail	

violation of state or federal laws or departmental regulations the contraband, along with information regarding the sender and addressee, shall be used as evidence. In these cases, the inmate will not be given a receipt for the contraband.

- (d) Any cash, money orders, or cashier's checks found in inmate mail shall be credited to the inmate's trust fund account, with a receipt to the inmate. It shall be the inmate's responsibility to notify the sender that money was received. Money or other forms of exchange that are concealed and not readily seen by the mail handler will be considered contraband and will be confiscated. Money shall be receipted and submitted to Correctional Industries for deposit to the Correctional Industries Betterment Account.
 - (e) Incoming mail with stickers, stamps or other articles affixed, other than postage stamps, that can be used to conceal drugs/contraband will be refused and returned to the sender.
- (3) Incoming mail will be delivered per the following:
- (a) First class - processed within 24 hours of receipt.
 - (b) Second class (newspapers) - processed within 24 hours of receipt.
 - (c) Magazines and third class (circulars, booklets, catalogs) - will be processed when time permits but in no case will they be held longer than 48 hours from time of receipt.
- (4) Incoming and outgoing mail will be processed Monday through Friday, excluding legal holidays and weekends.

B. Privileged Mail

- (1) The following are considered privileged correspondence sources:
- (a) President
 - (b) Governor
 - (c) Attorney General - State and Federal
 - (d) Members of the Legislature and Congress.
 - (e) Courts

IV. OPERATIONAL SERVICES

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">SECTION NUMBER: 402</td> <td style="width: 50%; padding: 5px;">PAGE NUMBER: 7 of 8</td> </tr> <tr> <td colspan="2" style="padding: 5px;"> SUBJECT: Effective 5-1-84 Inmate Mail Regulations and Procedures for Processing Inmate Mail </td> </tr> </table>	SECTION NUMBER: 402	PAGE NUMBER: 7 of 8	SUBJECT: Effective 5-1-84 Inmate Mail Regulations and Procedures for Processing Inmate Mail	
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SUBJECT: Effective 5-1-84 Inmate Mail Regulations and Procedures for Processing Inmate Mail					

- (f) Attorneys of Record, or those in official attorney-client relationships (name and address of the attorney must be on the envelope).
- (g) Legal Assistance Agencies
- (h) Board of Correction Members
- (i) Parole Authorities
- (j) Director of the Department of Corrections
- (k) Facility Heads
- (l) Civil Rights Division of the Department of Justice
- (2) All outgoing mail to privileged correspondents will be sealed in envelopes. A notation must be made on the envelope that the mail is "privileged". The name of the inmate, addressee and date sent shall be logged.
- (3) Incoming privileged mail will be logged by the mail handler indicating the name of the sender, the inmate and date received and opened only in the presence of the inmate. It should be clearly marked "privileged or legal mail" to avoid accidental opening.
 - (a) Should privileged mail be opened accidentally, it should be resealed with tape and a notation made on the envelope, "opened in error," initialed by the mail handler and logged.
 - (b) Privileged mail will be distributed by individuals designated by each facility's procedure who will open the mail only in the presence of the inmate to check for contraband and/or money. Money and contraband shall be submitted to the mail handler for proper receipting and/or handling. Contraband will be seized and forwarded for appropriate handling.
- (4) Inmate law clerks may not send privileged mail out for other inmates under the law clerk's name. If work is being done by law clerks for other inmates and the work must be mailed out, the envelope must clearly identify in the return address for whom the work was done not by whom it was done. If the inmate has funds, he will then be required to sign a draw slip for postage before material will be mailed.

IV. OPERATIONAL SERVICES

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 402	PAGE NUMBER: 8 of 8
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C. Forwarding Mail

All institutions and community work centers should keep on file the forwarding address of inmates released or transferred to another institution or CWC. It is the inmate's responsibility to notify the facility mail handler and/or the U. S. Post Office of their forwarding address.

- (1) First class mail and packages that are not forwardable shall be returned to sender. All other mail shall be returned to the Post Office.
3. Inmates may use the department's grievance process to appeal any actions relating to mail regulations and processing. Actions are grievable only where there has been a violation of policy and procedure.
4. Any exceptions to this operations memorandum shall require written approval from the Director.

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 320	PAGE NUMBER: 1 of 2
	SUBJECT: EFFECTIVE: 11-15-83 CONTROL OF INMATE PERSONAL PROPERTY	

Policy of the Department of Corrections: It is the policy of the Idaho Board of Correction to provide to facility heads and inmates a comprehensive list of personal property authorized for each custody level within Idaho correctional facilities. (See Attachment A)

Discussion: Prior to the issuance of this Policy and Procedure there were no uniform statewide guidelines or standards for the amount of inmate personal and legal property. Institutional overcrowding, fire hazards, security problems, and sanitation issues underlie the requirement that system-wide guidelines be established to assist in the management of inmate personal and legal property in living quarters and elsewhere in the Institution. The intent of this Policy and Procedure is to insure equal treatment of personal property in all Idaho facilities. At the same time these guidelines will assist in providing a safe environment for staff and inmates.

Reference: American Correctional Association Adult Correctional Institutions', 2nd Edition 2-4261.

Procedures: 1. Limits of Inmate Personal Property.

- a. The Idaho Department of Corrections will develop a list of authorized items that an inmate may possess. This list will be available in all living areas and provided to inmates upon their initial assignment to a facility.
- b. The facility will establish storage areas as needed for storage of inmate personal property. The amount of personal property allowed each inmate will be limited to those items which can be neatly and safely stored. Under no circumstances will any materials referred to in this Policy and Procedure be accumulated to the point where they become a fire, sanitation, security or housekeeping hazard.

2. Legal Materials

Inmates will be allowed to maintain legal materials necessary for their legal actions. The allowable amount of legal material is two (2) cubic feet.

3. Personal Mail

The Department will limit personal mail to two (2) cubic feet.

4. Hobbycraft Materials

The facility shall develop procedures dealing with arts and crafts projects and the storage of such if such programs are permitted. If

DEPARTMENT OF CORRECTIONS	POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 320	PAGE NUMBER: 2 of 2
		SUBJECT:	EFFECTIVE: 11-15-83
		CONTROL OF INMATE PERSONAL PROPERTY	

the facility permits storage of hobbycraft items in the cell living area, it shall be stored in such a way that they are secure and do not present a fire, sanitation, security or housekeeping hazard. Flammable and toxic materials are prohibited in the housing areas.

5. Inmate Transfer Between Institutions

When an inmate is transferred between institutions all personal effects and property including legal material will be inventoried. Allowable property will be transferred with the inmate when he/she is reassigned. The sending facility is responsible for disposing of all property not allowed at reassigned facility or new custody level. Personal property will be held for thirty (30) days and then if not claimed it will be declared abandoned property. Contraband or abandoned property will be stored for six (6) months and then destroyed or turned over to the State. It is the inmate's responsibility to dispose of personal property that is not allowed.

6. Lost or Stolen Property

All inmates must report in writing within seventy-two (72) hours the loss or theft of property.

7. Escapes

- a. All the property of the escaped inmate will be inventoried by the officer on duty at the time of the escape.
- b. The escaped inmate's personal property will be considered abandoned. Abandoned property will be considered contraband.

8. Commissary

No direct mail order or catalog purchases are allowed by inmates. Outside vendors are prohibited.

Action: The Department will develop a list of authorized items permitted in facilities. This information will be available in the facilities' rules and regulations, so that the inmates and staff can be familiar with the procedures. Additionally, the orientation program at the RDU center will address the question of inmate personal and legal property. Inmates are prohibited from lending or borrowing others' personal property. Lent or borrowed property will be considered contraband to both parties. Transfer of personal property between inmates is prohibited.

ATTACHMENT A

CUSTODY LEVEL

			DETENTION/IN TRANSIT										
			RDU ENTRY										
			ADMINISTRATIVE SEGREGATION										
			DEATH ROW										
			MAXIMUM										
			CLOSE										
			MEDIUM										
			MINIMUM										
			COMMUNITY										
ITEM	SEX F	M											
1. State may issue (1 pair of shoes or boots, 3 shirts, 3 pair of pants, 3 sets of underwear, 2 sheets, 2 blankets, 1 pillow case)	X	X							X	X	X		
2. One (1) Wedding Band	X	X	X	X	X	X	X	X	X	X	X	X	X
3. One (1) Religious Medallion & Chain	X	X	X	X	X	X	X	X	X	X	X	X	X
4. Protheses as prescribed	X	X	X	X	X	X	X	X	X	X	X	X	X
5. Mail Received While on Detention	X	X	X										
6. Two (2) Cubic Feet of Legal Material	X	X	X	X	X	X	X	X	X	X	X	X	X
7. One (1) Religious Book	X	X	X	X	X	X	X	X	X	X	X	X	X
8. One (1) Non-Religious Book	X	X	X										
9. Prescription Glasses	X	X	X	X	X	X	X	X	X	X	X	X	X
10. Five (5) Pictures No Larger Than 5" X 8"	X	X	X										
11. Six (6) Cubic Feet of Personal and legal property excluding TVs, radios, fans and guitars where authorized.	X	X			X	X	X	X	X	X	X	X	
12. One (1) Pair of Boots or Shoes	X	X	X	X	X	X	X	X	X	X			
13. Twenty (20) Postage Stamps	X	X	X	X	X	X	X	X	X	X	X	X	X
14. Shower Thongs	X	X		X	X	X	X	X	X	X	X	X	X
15. Stationery*	X	X		X	X	X	X	X	X	X	X	X	X
16. Wrist Watch not to Exceed \$35 in value*	X	X		X	X	X	X	X	X	X	X	X	X
17. One (1) AM/FM Radio*	X	X		X	X	X	X	X	X	X	X	X	X

* Institution inmates must purchase this item through the commissary.

ITEM	SEX	
	F	M
17. One (1) AM/FM Radio*	X	X
18. Non-Electric Curlers*	X	
19. Ten (10) Pictures No Larger Than 5" X 8"	X	X
20. Twenty (20) Pictures No Larger Than 5" X 8"	X	X
21. Ten (10) Books or Magazines	X	X
22. Two (2) Pair Thermal Winter Underwear WHERE ALLOWED:	X	X
23. One (1) Television Receiver, Solid State, 12" Screen, 60 Watt Maximum* WHERE ALLOWED:	X	X
24. One (1) Electric Fan* (13" Maximum and plastic blades)	X	X
25. Gym Clothes* (White or navy--1 pair of shorts, 1 top, 1 pair of shoes, 1 athletic supporter, 1 sweat suit)	X	X
26. One (1) Photo Album*	X	X
27. Ten (10) Personal Books	X	X
28. Ten (10) Personal Magazines	X	X
29. One (1) Set of Headphones*	X	X
30. One (1) Ceramic Coffee Mug* Where allowed:	X	X
31. One (1) Approved Hobby Craft Project	X	X
32. One (1) Bathrobe*	X	X
33. One (1) Pair of Slippers*	X	X

[illegible]

*.Institution inmates must purchase this item through the commissary

ITEM	SEX	
	F	M
34. One (1) Chess Set*	X	X
35. One (1) Deck Playing Cards*	X	X
36. Two (2) Jigsaw Puzzles*	X	X
37. One (1) Belt*	X	X
WHERE ALLOWED:		
38. One (1) Harmonica (8" Length Max)*	X	X
Where allowed:		
39. One (1) Guitar & Case (Non-Electric	X	X
With \$125 Maximum Value)*		
40. One (1) Ashtray*	X	X
41. One (1) Blanket*	X	X
42. One (1) Cribbage Set*	X	X
43. One (1) Throw Rug* 15 sq. ft. Max.	X	X
44. One (1) Sweater	X	X
45. Two (2) Pair of Boots or Shoes	X	X
46. One (1) Toilet Kit*	X	X
47. Five (5) Pair of Undershorts*		X
48. Five (5) Pair of Underpanties*	X	
49. Five (5) Undershirts*		X
50. Five (5) Bras*	X	
51. Five (5) Pair of Socks*	X	X
52. One (1) Wallet*	X	X
53. Two (2) Pillow Cases*	X	X
54. Two (2) Pair of Bed Sheets*	X	X
55. Two (2) Wash Cloths*	X	X

DETENTION IN TRANSIT

RDU ENTRY

ADMINISTRATIVE SEGREGATION

DEATH ROW	
1	1
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96	96
97	97
98	98
99	99
100	100

MAXIMUM

CLOSE

MEDIUM

MINIMUM	MAXIMUM
1	10
2	20
3	30
4	40
5	50
6	60
7	70
8	80
9	90
10	100

COMMUNITY

* Institution inmates must purchase this item through the commissary

ITEM	SEX	
	F	M
56. Two (2) Bath or Hand Towels*	X	X
57. One (1) Smoking Pipe*	X	X
58. One (1) Clipboard*	X	X
59. Six (6) Handkerchiefs*	X	X
60. Approved Job Essential Items	X	X
61. Two (2) Neck Ties or Scarves	X	X
62. One (1) Hair Blow Dryer*	X	X
63. One (1) Hair Curling Iron*	X	
64. One (1) Electric Iron*	X	X
65. One (1) Buckle Not to Exceed 2 1/2" X 3 1/2"*	X	X
66. Two (2) Casual or Dress Shirts		X
67. Two (2) Casual or Dress Blouses	X	
68. Two (2) Pair of Trousers		X
69. Two (2) Skirts or Pair of Slacks	X	
70. One (1) Heavy Winter Coat	X	X
71. One (1) Light Wind-Breaker*	X	X
72. One (1) Electric Razor*	X	X
WHERE ALLOWED:		
73. One (1) Digital Alarm Clock Radio*	X	X
74. Gym Clothes		

* Institution inmates must purchase this item through the commissary

VI. INSTITUTIONAL PROGRAMS AND ACTIVITIES

DEPARTMENT OF CORRECTIONS	POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 604	PAGE NUMBER: 1 of 2
	SUBJECT: Visiting Inmates		

Policy of the Department

The Department encourages inmate communication with family, friends and relatives through visits to the institution.

Procedure

1. The following rules and procedures shall be observed by the institutions in the administration of visits.
 - a. A suitable area within the institution must be provided for inmate visitation. All visits shall be held in this area, except when authorization is granted by the Administrator.
 - b. Each inmate shall make a list of friends and relatives he wishes to visit, taking into consideration each institution's or facility's rules and regulations. Potential visitors shall be furnished copies of institutional visiting rules and regulations.
 1. Potential visitors who violate the regulations or refuse to be searched may result in cancellation of visiting privileges.
 2. Institutions shall conduct investigations to confirm that good reasons exist for approving visitations.
 3. Proposed visitors who are below a set age limit may not visit, unless they are members of the immediate family.
 - c. Regardless of any visiting list restrictions, visitation is permitted inmate's attorney of record or clergy, unless any clear abuse of this privilege has occurred or unless such a visit may prove dangerous or harmful to the security and order of the institutional facilities or to the rehabilitation of any inmate.

The institutional facilities and inmates may be visited at any time by members of the State Legislature, Judges of State and federal courts, the State Attorney General, or the Governor.

Those individuals requesting visits with an inmate who are not designated on the list shall be interviewed and identified by authorized personnel. If the requested visits conform to institutional and Departmental requirements, one (1) visit may be approved pending further investigation and approval of subsequent visits.

VI. INSTITUTIONAL PROGRAMS AND ACTIVITIES

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 604	PAGE NUMBER: 2 of 2
	SUBJECT: Visiting Inmates	

Ex-inmates are prohibited visitation unless approval is given by the institution's Administrator. Parolees and probationers must be approved by the Administrator and have written authorization from their supervising probation or parole officer prior to visitation.

d. Visitors in the institution shall:

1. Wear appropriate attire.
2. Not give or receive any written material, article or merchandise of any sort except in accordance with approved institutional or Departmental regulations.
3. Not be permitted to visit more than one (1) inmate at any one visitation time unless the visitor is a member of the immediate family of more than one inmate confined in the institution; other exceptions to this regulation are at the institutional Administrator's discretion.
4. Signed in prior to and after the visitation.
5. Be subject to search, photographing or fingerprinting.
6. Be restricted in visitation rights if institutional disturbances occur

e. Designated personnel shall be present during all visitations, and shall supervise visits to the extent appropriate to the nature and privacy of the relationship between the visitor and inmate.

III. INMATE MANAGEMENT

DEPARTMENT OF CORRECTIONS	POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 303	PAGE NUMBER: 1 of 2
		SUBJECT: Classification Levels of Custody	

Policy of the Department

The institutions and facilities will maintain classification procedures for assessing the needs of inmates to ensure their progression toward fulfillment of the Department's rehabilitative goal while protecting the community utilizing the least restrictive means possible.

Procedure

1. There are four levels of classification to which an inmate is assigned during his period of incarceration. At I.S.C.I., there are also degrees within each level. Each level and/or degree of custodial classification indicates the type of housing, the area of assignment or activity, and the kind of supervision for maintaining control of each inmate. The custody exercised over an inmate may be greater, but shall not be less, than that prescribed in the definition of the level of degree of custody.

- a. Close Custody applies to those inmates whose behavior and attitude, both past and present, indicate that active efforts will be made to escape and violence will be used in doing so. This classification may include inmates returned to the institution or entering I.S.C.I. for the first time.

Inmates will be placed in this classification status as they begin their individualized program. While in this status, an inmate must complete those tasks applicable to the status as predetermined and agreed upon by the inmate and the institution staff.

- b. Medium Custody applies to those inmates whose behavior and attitude, both past and present, indicate that they will not make active efforts to escape, but might escape if it were made easy, probably not using violence. Inmates in this status continue to work toward the completion of those goals previously established and agreed upon.
- c. Minimum Custody applies to those inmates whose behavior and attitude, both past and present, indicate that they are prepared to serve their sentence, unlikely to walk away from an open institution, and unlikely to use any type of violence in escape.

This status will apply to those inmates who are approaching satisfactory completion of their rehabilitation plan and to inmates considered ready and eligible for work release programs.

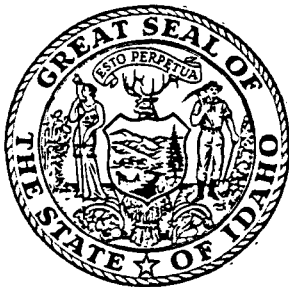
III. INMATE MANAGEMENT

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 303	PAGE NUMBER: 2 of 2
	SUBJECT: Classification Levels of Custody	

- d. Maximum Custody is a level of custody into which an inmate may be classified as the result of a determination that he presents a substantial risk to the security or order of the institution, the safety of himself/herself or others, and therefore, requires separation from the general institution population and strict supervision in a highly structured, controlled setting.

IDAHO
DEPARTMENT OF CORRECTIONS

USER MANUAL
FOR
INMATE CUSTODY CLASSIFICATION



April 1984

A. I. MURPHY
DIRECTOR

DEPARTMENT OF CORRECTIONS

USER MANUAL

FOR

INMATE CUSTODY CLASSIFICATION

This project was developed under Grant Number FK-4, awarded to the Idaho Department of Corrections, Boise, Idaho, by the U. S. Department of Justice, National Institute of Corrections, Washington, D. C.

Points of view or opinions stated in this manual are those of the Idaho Department of Corrections and do not necessarily represent the official position or policies of the U. S. Department of Justice, National Institute of Corrections.

This manual was prepared by the sub-committee on inmate classification:

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Dennis Bodily
Dave Paskett
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Tom Lee

Effective Date April 1984

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DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 318	PAGE NUMBER: 1 of 10
	SUBJECT: ADOPTED: 10-1-83 Disciplinary Procedures Including Levels of Allowable Punishments & Reporting Procedures	

Policy of the Department of Corrections: It is the policy of the Idaho Board of Correction that the Idaho Department of Corrections shall promulgate rules of conduct for incarcerated inmates and procedures to insure the constitutional disposition for violations of such rules.

REFERENCE: Talmage and McKaughn vs. State of Idaho, #1790, 4th Judicial District (1982)

Standards for Adult Correctional Institutions, Second Edition. Standards 2-4216, 2-4347, 2-4348, 2-4349, 2-4351 thru 2-2353, and 2-4356 thru 2-4368.

PROCEDURES: It shall be the responsibility of each facility head to insure that inmates confined in the facility under their control receive equitable treatment and due process protection when alleged to have violated the facility's rules of conduct. Any time it is necessary to extend the time limits set forth in this operations memorandum, the inmate shall receive written notification of the extension prior to its imposition. Attachment A of this operations memorandum defines all rule violations and specifies the allowable range of sanctions authorized by the Idaho Department of Corrections for each offense. Compliance with the following procedures is necessary to insure the consistent and constitutional application of disciplinary sanctions. The written rules, range of sanctions, and disciplinary procedures shall be reviewed at least annually and updated as necessary.

GENERAL CONSIDERATIONS:

A. Selecting and Training Investigation Officers and Disciplinary Hearing Officer.

1. The facility head is responsible for designating investigating officers at each facility
2. All investigating officers and Hearing officers shall have completed a specialized training program prescribed and approved by the Departmental Hearing Officer. The supervisor training shall include procedures for handling confidential information.
3. After successful completion of the approved Department training program, hearing and investigating officers shall conduct training sessions at the facility level for personnel who work with inmates. This training must be continuous on an in-service basis.

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		SUBJECT:	ADOPTED: 10-1-83
Disciplinary Procedures Including Levels of Allowable Punishments & Reporting Procedures			

B. Determining Reliability of Confidential Witnesses

1. If confidential witness testimony constitutes a portion of the investigative report, the investigating officer must prepare written evaluation of the witness' reliability and why they should remain confidential.
2. The testimony of confidential witnesses must be written or tape recorded and must state the facts as submitted by the witness or the investigator and the manner in which knowledge of those facts was acquired.
3. The evidence regarding reliability must be attached to the confidential witness' sealed testimony and submitted with the investigative report to the Hearing Officer.
4. Prior to opening and reviewing the confidential witness' sealed testimony, the Hearing Officer shall review the evidence as to the reliability of the confidential witness and determine whether they will consider the confidential testimony.
5. For the taped record, when the disciplinary hearing convenes, the hearing officer shall state that he will be considering confidential testimony. The hearing officer must give written reasons why and independently verify the credibility of the confidential and anonymous information.

C. Using Confidential Information

If confidential witness testimony is admitted in a disciplinary hearing, the anonymity of the confidential witness shall be maintained. When reviewing confidential testimony, the Hearing Officer shall have the inmate and representative leave the room during the period of deliberation and the tape recorder will be turned off. When the inmate and representative return to the room, the Hearing Officer shall read into the record a brief summary of the confidential testimony if doing so would not jeopardize the anonymity of the confidential witness.

D. Definition of Terms

1. Staff member. As used in this operations memorandum, staff member refers to any paid Department of Corrections' employee, volunteers, employees associated with any contract facility, vo-tech employees, and anyone else who works with inmates and is subject to be in a position to observe an inmate violating DOC rules.

DEPARTMENT OF CORRECTIONS	POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 318	PAGE NUMBER: 3 of 10
		SUBJECT: ADOPTED: 10-1-83 Disciplinary Procedures Including Levels of Allowable Punishments & Reporting Procedures	

2. Prehearing detention. The removal of an inmate from the general population pending a disciplinary hearing if deemed to be a threat to the security of the facility.

E. Staff Representatives and Their Responsibilities

1. Representatives or inmate representation shall always be appointed where, in the opinion of the investigating officer, and where the inmate so desires, there is an inability for the charged inmate to gather evidence, where the inmate is incompetent of making a defense, or where an interpreter is required, or where confidential information is being considered. An inmate may waive staff representation except when a ruling of incompetency has been made.
2. The facility head shall designate a pool of facility personnel who shall assist inmates on an available basis.
3. It shall be the responsibility of the representative to assist the inmate in preparing and presenting his defense.
 - a. The representative shall consult with the inmate to insure that he understands the charge against him and the potential consequences. If the inmate plans to plead guilty, the representative shall explain the ramifications of such a plea to insure the inmate fully understands the consequences of a guilty plea.
 - b. The representative shall assist the inmate in determining the witnesses and evidence to be requested in the inmate's behalf.
 - c. The representative shall be present throughout the course of the disciplinary hearing, except for any period of deliberation, to make or assure that a fair presentation of the inmate's evidence is made.
4. In cases in which the assigned representative can demonstrate an inability to perform in such capacity or demonstrates a direct conflict of interest, he shall submit a written request to the facility head to be excused from such duties. Persons shall not serve as staff representative in a case if they had involvement.
5. In the event the inmate chooses to no longer have the assistance of the assigned representative, he must formally waive any assistance in writing or on the record. If, in the judgment of the hearing officer, the inmate is unable to knowingly and intelligently waive such assistance, the hearing officer head shall take appropriate action to provide assistance.

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ii. Should a facility emergency occur which would preclude service of the offense report within the required 24-hour period, service shall be accomplished as soon as reasonably possible and such exception shall be documented in writing and attached to the completed offense report.

- d. Upon delivery of the offense report to the inmate, the designated employee shall insure that date and time of delivery is completed. At this time, the inmate may waive his right to a disciplinary hearing by signing the appropriate section on the offense report.
- e. The shift supervisor, unit manager or designee shall also insure that any offense report which is not handled informally is delivered to the facility head, or Hearing Officer for review and further disposition.

2. Use of Prehearing Detention

- a. The inmate shall not be placed in prehearing detention unless the inmate's continued presence in the general population poses a threat to facility security. Placement in prehearing detention may only occur with the authorization of the shift supervisor or higher ranking security officer. The need for such action shall be documented in writing by the shift supervisor, utilizing the "Restrictive Housing" form, at the time of placement. An inmate shall not be kept in prehearing detention in excess of 96 hours (excluding weekends and holidays) unless unusual circumstances exist which are documented by the facility head. Any prehearing detention in excess of 96 hours shall be reported to the Director.
- b. If the inmate requires transfer to a different facility for prehearing detention, the originating (sending) facility will initially effect the transfer through agreement between the originating and receiving facility.
- c. The investigation of the alleged offense remains the responsibility of the originating facility.
- d. Reports regarding the length of time the inmate is held in prehearing detention are the responsibility of the receiving facility.

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3. Disciplinary Hearings

- a. The facility head, or designee, shall schedule the disciplinary hearing and shall forward all reports to the Hearing Officer. The Hearing Officer shall insure that the Disciplinary Hearing is held within seventy-two (72) hours (excluding weekends and holidays) of the inmate's receipt of a copy of the offense report. Disciplinary hearing postponement or continuance may be granted for a reasonable period of time for good cause; such as illness or unavailability of the inmate, need for further investigation of factual matters relevant to the hearing, or pending criminal court prosecution. Any delay in the conduct of this hearing shall be documented in writing and attached to the disciplinary action.

If the inmate waived his right to a full evidentiary hearing by the Disciplinary Hearing Officer, and no investigation is required, the Offense Report shall be forwarded directly to the Hearing Officer by the facility head or designee for disposition and imposition of sanctions. If, in the opinion of the facility head or designee, an investigation is warranted, it shall be conducted and the report must accompany the Offense Report.

- b. The disciplinary hearing shall be conducted by an impartial hearing officer, designated by the facility head or designee.
 - i. The Hearing Officer shall have satisfactorily completed a training program prescribed and approved by the Department.
 - ii. Any staff member who has direct involvement with the offense may not sit as Hearing Officer. The following activities constitute direct involvement:
 - aa. Witnessed the offense or circumstances directly related to the offense
 - bb. Wrote up the offense
 - cc. Investigated the offense
 - dd. Was the assigned shift supervisor when offense occurred
 - ee. Engaged in other similar activities which would compromise their ability to function objectively

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- c. The inmate shall be present throughout the disciplinary hearing with the exception of the period of deliberation and when confidential information is presented.
 - i. Should the behavior of the inmate warrant removal from the disciplinary hearing, such removal shall be documented in writing.
 - ii. If the inmate refuses to attend the disciplinary hearing, it shall be noted and the hearing may proceed.

- d. Excluding any period of deliberation, and per confidentiality guidelines, all A through C disciplinary hearings shall be tape recorded. The tape recording shall be the official record of the disciplinary hearing. Tapes shall be maintained by the Department for a period of 180 days from the date of completion of the review process. Except when required for Administrative review, the tapes shall be maintained at the facility.

Upon commencement of the disciplinary hearing, the Hearing Officer shall ask the offender for a plea of guilty or not guilty. The Hearing Officer shall inform the inmate that a guilty plea waives the appeal rights to the Director.

- e. The Hearing Officer shall explain to the inmate that a plea of guilty shall eliminate the opportunity of the case being reviewed by the Director. If the inmate wishes to file a grievance on any portion of the hearing process, he can only do so after completion of the appeal process except as it relates to time restrictions cited within this operations memorandum.
- f. The Hearing Officer shall read the Offense Report, the Investigator's Report, all witness statements, and attachments into the record except as prohibited by the confidentiality guidelines.
- g. The inmate shall be asked by the Hearing Officer to enter a plea of guilty or not guilty by marking the appropriate box and initialing the entry on the offense report. If the inmate refuses to initial, the officer shall write on the form that the inmate refused to sign.
- h. The inmate shall be afforded the opportunity to make a statement to the Hearing Officer, present witness testimony, present statements and other documentary evidence, and be informed of the evidence against him



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except for confidential information. The inmate shall not have access to any confidential reports or be allowed to cross-examine any adverse witness. The inmate or his representative may question relevant witnesses called on the inmate's behalf.

- i. Upon the completion of the statement of the inmate and questioning by the Hearing Officer, the inmate and his representative (if applicable) shall remove themselves from the disciplinary hearing during deliberation. The tape recorder shall be turned off during this period. In making the decision, the Hearing Officer shall consider only evidence presented during the course of such hearing.
- j. During deliberation the Hearing Officer shall only consider the evidence presented during the hearing when determining guilt or innocence. The Hearing Officer may consider the inmate's prior institutional record and the evidence presented during the hearing when determining punishments for an offense. The Hearing Officer is authorized to establish findings and punishment for any lesser included offense. Lesser included offenses are those acts of a lesser class under the same heading and having the same numerical prefix as the instant offense.
- k. When the deliberation is completed and has been recorded, the inmate and his representative (if applicable) shall return to the disciplinary hearing and the tape recorder shall be turned on again if applicable. At this time, the inmate shall be informed of the finding of the Hearing Officer and the basis for such finding, and the punishment imposed if applicable. A copy of the report shall be given to the inmate.
- i. Should there be a finding of not guilty, the Misconduct Report shall be forwarded to the facility head. "Not Guilty" material shall never be available to, or used by, any staff person or committee in the decision making process concerning the inmate. No record of the misconduct report shall be made or filed in any individual inmate's record, either manual or automated. All lost earned credits resulting from the disciplinary process shall be restored.
- ii. Should there be a finding of guilty or guilty to a lesser included offense, the inmate shall be informed of the reasons for such finding and the punishment imposed.

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- aa. The punishment imposed shall be no more than three (3) punishments within the allowable range of punishments as listed in Attachment A.
 - bb. The allowable punishment may be suspended by the Hearing Officer for a specified period not to exceed 90 days. If the inmate is convicted of any rule infraction while on suspended punishment, the punishment shall be revoked to run consecutive to the new punishment. A revoked suspended punishment shall not be viewed as one of the possible three punishments for the new offense.
 - iii. Subsequent administrative action by the Facility Classification Committee or other authority shall not be construed as additional punishment. If the conviction for an offense affects the inmate's security level, the inmate will be considered by the Classification Committee for proper reclassification.
- 1. Within 24 hours of the conclusion of the disciplinary hearing, excluding weekends and holidays, the report shall be forwarded to the facility head for review. The facility head shall take one of the following three actions:
 - i. Affirm - the facility head agrees with the actions of the Hearing Officer.
 - ii. Dismiss - the facility head disagrees with the actions of the Hearing Officer and dismisses the Misconduct Report.
 - iii. Modify - the facility head modifies the action of the Hearing Officer.
 - aa. The facility head may suspend the punishment; reduce the amount of lost earned credits, restitution, or detention, or modify the punishment to extra work duty, restriction, reprimand, or order a re-hearing of the case. A modification cannot exceed, in time, the number of days of the original punishment. The facility head can not increase the punishment.
 - bb. Should the modification render the Misconduct Report ineligible for appeal by the Director and the inmate has requested such a hearing, it shall be so noted on the Disciplinary Report.

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m. The original of the Misconduct Report shall be forwarded to the facility's records office for inclusion in the inmate's manual and automated record.

B. Provisions To Handle Cases Where A Detention Unit Sanction Is Imposed

1. If the inmate requires reclassification within the guidelines established, the following procedures shall be used to effect the reclassification action:
 - a. If the inmate is to serve disciplinary time at the facility where pre-hearing detention was provided, the receiving facility shall conduct the classification hearing following the disciplinary hearing.
2. Where the inmate is to serve DU time at another facility, upon completion of the sentence (absent a classification action recommending higher security), the inmate shall be returned to the originating facility where the infraction occurred in a manner consistent with the Department's classification and transfer procedures.

C. Appeal Process

1. After the inmate has been informed of the punishment imposed by the Hearing Officer, he may request a review by the Director if the following criteria are met:
 - a. There was a finding of guilty when a plea of not guilty was entered and,
 - b. The punishment imposed was at least one of the following:
 - i. Disciplinary Unit (even if suspended)
 - ii. Loss of Earned Credits (even if suspended)
2. The inmate may appeal the Hearing Officer's decision to the Director when the above conditions are met. Appeal must be made within 15 days of the finding of guilty. The appeal will be decided within 30 days of receipt by the Director.
3. The inmate may appeal the Misconduct Report or the actions of the Hearing Officer through the established grievance procedure should he not qualify for a Director's Review. Any exceptions to this operations memorandum shall require prior written approval from the Director.

ACTS CONSTITUTING RULE VIOLATIONS*

CLASS
OF
OFFENSE

GROUP DISRUPTION

- | | | |
|-------|---|---|
| 01-A. | Banding together without administrative approval for purpose of demonstration, work stoppage, hunger strike, etc. | B |
| 01-B. | Taking over a part of the physical plant. | A |
| 01-C. | Participation by two or more in a course of disorderly conduct: (a) with purpose to commit or facilitate commission of a felony or misdemeanor; or (b) with purpose to prevent or coerce official action; or (c) when the actor or any other participant to the knowledge of the actor uses or plans to use a firearm or other deadly weapon. | A |
| 01-D. | Involvement in writing, circulating or signing a petition that poses a threat to the security of the facility. | C |

INDIVIDUAL DISRUPTIVE BEHAVIOR

- | | | |
|-------|---|---|
| 02-A. | Aiding and abetting in the commission of any rule violation. | C |
| 02-B. | Under the influence of and/or any use of illegal drugs, alcohol, intoxicating chemicals or any medication in an unauthorized manner. | B |
| 02-C. | Monetary misconduct - Entering into contractual agreements requiring time payments/receiving salary/wage advances/entering into other contractual agreements/failure to turn in all paychecks/money received. | C |
| 02-D. | Employment misconduct - Quitting job without prior approval/getting fired for misconduct on job, tardiness or shirking of duties/failure to notify staff/employer when too ill to work. | D |
| 02-E. | Unauthorized use of mail or telephone, to include passing unauthorized messages. | C |

*The third infraction of the same rule violation within six months is justification for increasing the imposed sanction to a sanction classified in the next higher class of offense.

ACTS CONSTITUTING RULE VIOLATIONS*

	CLASS OF OFFENSE
02-F. Unauthorized contacts with public	D
02-G. Correspondence/conduct with visitor in violation of posted regulations, excluding sexual activity.	D
02-H. Running from or resisting apprehension within facility.	A
02-I. Interfering with taking of count.	C
02-J. Tattooing/self-mutilation.	C
02-K. Failure to keep one's self/quarters in accordance with posted regulations.	D
02-L. Failing to stand count.	D
02-M. Bucking an inmate line.	D
02-N. Not having proper I.D.	D
02-O. Tampering with or blocking any lock or locking device.	B
PRESENT IN UNAUTHORIZED AREA	
03-A. Outside defined boundaries within facility as defined by facility.	C
03-B. Outside living quarters after designated hours.	C
03-C. Failure to follow sign-in/sign-out procedures.	D
03-D. Unexcused absence from work/school assignment.	C
03-E. Unauthorized presence in another's cell/living quarters.	C
BATTERY	
04-A. Killing another person(s).	A
04-B. Participating in activity that directly results in the intentional death of another person(s).	A

*The third infraction of the same rule violation within six months is justification for increasing the imposed sanction to a sanction classified in the next higher class of offense.

ACTS CONSTITUTING RULE VIOLATIONS*

	CLASS OF OFFENSE
04-C. Battery of another person.	A
04-D. Participating in activity that directly results in the intentional injury of another person(s).	A
04-E. Rape or forcible sexual act.	A
04-F. Kidnapping another person.	A
MENACING	
05-A. Seizing another person as hostage.	A
05-B. Threats of bodily harm or death to another person.	B
05-C. Assault - any willful attempt or threat to inflict injury upon the person of another, when coupled with apparent present ability to do so, and any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm.	A
05-D. Making sexual threats to another person.	C
EXTORTION	
06-A. Demanding/receiving money or favors or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing.	A
THEFT	
07-A. Unauthorized use of State property/supplies.**	C
07-B. Breaking into another person's room/locker.**	B
07-C. Forgery of any type.**	C
07-D. Taking of property. (Value \$25 or over)**	C
07-E. Taking of property. (Value under \$25)**	D

*The third infraction of the same rule violation within six months is justification for increasing the imposed sanction to a sanction classified in the next higher class of offense.

**See Page 7 of Attachment A - Allowable Sanctions

ACTS CONSTITUTING RULE VIOLATIONS*

CLASS
OF
OFFENSE

DESTRUCTION OF PROPERTY

- | | | |
|-------|--|---|
| 08-A. | Destruction of State Property.** | C |
| 08-B. | Destruction of property of another person.** | C |
| 08-C. | Setting a fire.** | A |
| 08-D. | Willful adulteration of any foods or drinks. | A |
| 08-E. | Mutilation or alteration of State clothing or linen.** | D |

POSSESSION/MANUFACTURE OF CONTRABAND

- | | | |
|-------|--|---|
| 09-A. | Possession/introduction of any explosive, combustible substance or fireworks. | A |
| 09-B. | Possession/introduction of any gun, firearm, weapon ammunition, knife, sharpened instrument, unauthorized tool. | A |
| 09-C. | Possession/introduction of any drug, narcotic, intoxicant, chemical, drug paraphernalia not prescribed by medical staff. | A |
| 09-D. | Possession of money or currency, unless specifically authorized. | C |
| 09-E. | Possession of property belonging to another person. | C |
| 09-F. | Possession of clothing not authorized by facility. | D |
| 09-G. | Possession of staff uniforms. | A |
| 09-H. | Manufacture of intoxicants. | A |
| 09-I. | Counterfeiting, forging, or unauthorized reproductions of any document, article of identification, money, security, or official paper. | B |
| 09-J. | Possession of gambling paraphernalia not specifically authorized by the facility. | C |
| 09-K. | Possession of unauthorized identification. | C |

**See Page 7 of Attachment A - Allowable Sanctions

ACTS CONSTITUTING RULE VIOLATIONS*

CLASS
OF
OFFENSE

SEXUAL ACTIVITY

- | | | |
|-------|---|---|
| 10-A. | Engaging in sexual activity with another consenting person. | C |
| 10-B. | Making sexual proposals to another person. | D |
| 10-C. | Indecent exposure. | B |
| 10-D. | Bestiality. | B |

DISRESPECT TO STAFF

- | | | |
|-------|---|---|
| 11-A. | Insolence to staff member. | C |
| 11-B. | Using abusive/obscene language to staff member or visitor. | B |
| 11-C. | Making profane/obscene gestures to staff member or visitor. | B |

DISOBEDIENCE TO ORDERS

- | | | |
|-------|---|---|
| 12-A. | Failure to obey verbal and/or written order of staff member in a prompt manner. | B |
|-------|---|---|

FALSE STATEMENT

- | | | |
|-------|-----------------------------------|---|
| 13-A. | Lying to staff member. | C |
| 13-B. | Malingering, feigning an illness. | C |

GAMBLING

- | | | |
|-------|---|---|
| 14-A. | Preparing or conducting a gambling operation. | A |
| 14-B. | Participating in games of chance for gain/profit. | C |

BARTERING

- | | | |
|-------|---|---|
| 15-A. | The trading, selling, or loaning of property. | C |
| 15-B. | Attempting to give, giving, or receiving money or anything of value from any person as a bribe or inducement. | A |

**See Page 7 of Attachment A - Allowable Sanctions

ACTS CONSTITUTING RULE VIOLATIONS*

CLASS
OF
OFFENSE

ESCAPE

- | | | |
|-------|--|---|
| 16-A. | Successful escape from the custody of the Department of Corrections. | A |
| 16-B. | Participating in any activity that aids or abets an escape. | A |
| 16-C. | Failure to return from any approved activity or pass at the designated time. | A |
| 16-D. | Any attempt to escape from the custody of the Department of Corrections. | A |

RANGE OF ALLOWABLE SANCTIONS
Limit of Three Sanctions Per Class

Class A

1. Disciplinary Unit 0-60 days
2. Loss of earned credits up to 365 days*
3. Loss of Designated Privileges 0-60 days***
4. Restitution**
5. Extra duty up to 4 hours/day, not to exceed 60 days

Class B

1. Disciplinary Unit 0-30
2. Loss of Earned Credits 0-180*
3. Loss of Designated Privileges 1-30 days***
4. Restitution**
5. Extra duty up to 4 hours/day, not to exceed 30 days.
6. Formal reprimand/warning.

Class C

1. Disciplinary Unit 0-15
2. Loss of Earned Credits 0-90*
3. Loss of Designated Privileges 0-15 days***
4. Restitution**
5. Extra duty up to 4 hours/day, not to exceed 15 days.
6. Formal reprimand/warning.

Class D

1. Loss of Designated Privileges 1-15 days***
2. Restitution**
3. Extra duty up to 2 hours/day, not to exceed 5 days.
4. Formal reprimand/warning.

*Not to exceed amount accrued.

**Restitution may only be imposed in special cases, and then only for the actual amount of the replacement value of the item destroyed.

***Designated privileges include T.V. radio, phone, commissary (except postage stamps), movement, visits (except attorney), pass/furlough eligibility.

III. INMATE MANAGEMENT

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 316	PAGE NUMBER: 1 of 8
	SUBJECT: OFFENDER GRIEVANCE PROCESS	REVISED: 10-1-83

Policy of the Department

It is the policy of the Idaho Board of Correction that the Idaho Department of Corrections provide a process that enables each offender to resolve problems and find answers to questions concerning the operation of the Department as it relates to the offender. It is the purpose of this policy to provide a responsive offender grievance process whereby the offender will be able to address complaints concerning the Idaho Department of Corrections.

REFERENCES: Federal Register Vol. 46 No. 190 -- Part 40 -- Standards for Offender Grievance Procedures dated October 1, 1981.

42 U.S.C. § 1983

42 U.S.C. § 1197e

Order No. 957-81, 46 Federal Register 48186. October 1, 1981 Standards for Adult Correctional Institutions, 2d ed. Standard 2-4343

Standards for Adult Community Residential Services, 2d ed. Standard 2-2154

Standards for Adult Probation and Field Services, 2d ed. Standard 2-3163.

PROCEDURES: The Grievance procedure provides a legitimate method for the administrative settlement of offender grievances and guarantees the offender protection from reprisal.

1. General guidelines for the offender grievance process.

A. Definition of Terms

- (1) Offender Grievance. A written complaint by an offender on the offender's own behalf, regarding the policy within a facility, a condition of a facility, medical or dental problem, an incident occurring within a facility, or problems incident to parole or probation supervision.
- (2) Offender. For the purpose herein, the term shall be used to include offenders in institutions and community work centers, as well as probationers and parolees.
- (3) Reviewing Authority. These terms are used herein to refer to wardens and superintendents for incarcerated offenders, and district managers for probationers and parolees.
- (4) Appellate Authority. This term is used herein to refer to the director of the Department of Corrections for incarcerated offenders and the administrator of the division of Probation and Parole for probationers and parolees.

III. INMATE MANAGEMENT

DEPARTMENT OF CORRECTIONS  POLICY AND PROCEDURE MANUAL	SECTION NUMBER: 316	PAGE NUMBER: 2 of 8
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B. Applicability of the Grievance Procedures

- (1) Unless otherwise specified, the offender grievance procedure may be used to address complaints by offenders regarding all policies, conditions of confinement, actions by employees and other offenders and incidents occurring within the jurisdiction of the Idaho Department of Corrections that affect the offender personally.
- (2) Offenders are entitled to use the offender grievance procedure regardless of their classification or disciplinary status. If the offender wishes to file a grievance on any portion of the disciplinary hearing process, he or she can do so after completion of the disciplinary appeal process.

- C. The offender should seek informal resolution and exhaust all other available administrative remedies prior to using the grievance process.
- D. Reprisals against offenders who file offender grievances are strictly prohibited. Offenders have the right to file grievances against any employee for any reprisal resulting from the filing of an grievance. "Reprisal" means any action or threat of action against anyone for the use of, or participation in the grievance procedure.

2. Communication of Offender Grievance Procedures

- A. The written offender grievance procedure hearing shall be readily available to all employees and offenders.
- B. The institutions' Policy and Procedure Manual will explain in detail the offender grievance procedures. In addition, orientation meetings for offenders at all facilities will include an oral explanation of the procedures and the opportunity to have questions regarding the procedures answered.
- C. Offenders who do not understand English will be provided a translation in the language in which they demonstrate competency.
- D. All correctional employees who may reasonably be expected to be involved in the grievance process will receive training.

3. The Offender Grievance Process

- A. If an offender's aggrieved issue could not be handled informally, the offender's complaint must be filed within 15 calendar days of the incident in which the aggrieved action occurred. The reviewing authority may choose to extend the

III. INMATE MANAGEMENT

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filing period up to 60 days. Under no circumstance will the grievance be accepted after 60 days of the incident unless so ordered by a court pursuant to 42 USC Sec. 1997e.

B. The offender will indicate the following information on the "offender grievance report form" (refer to Attachment A):

1. The nature of the complaint. This statement must be specific as to the complaint, dates, places, personnel involved, and how the complaining offender has been affected.
2. Informal action taken to resolve the complaint as well as the names of those employees from whom the offender sought an answer to the grievance.
3. The action the offender believes the reviewing authority should take.
4. The date the completed grievance report form was sent to the reviewing authority.

C. Response by the reviewing authority:

1. Upon receipt of a grievance report form, the reviewing authority will assign a grievance number, grievance category code, indicate the date of receipt, and return the grievance report form to the offender with a response within twenty-one (21) calendar days.
2. Response will contain findings of fact, conclusions made, action taken by the reviewing authority, and reason(s) for action taken.
3. In the event a grievance cannot be adequately answered within the 21-day period, the reviewing authority will so inform the offender in writing within the 21-day period. The reviewing authority must state the reasons the response was delayed and will establish the date when a response will be given. This date must not exceed 30 days from the receipt of the grievance report form.
4. In all cases, the reviewing authority will return the original to the offender. The original may be used for further appeal (refer to Section 3.D) if the offender desires. A copy of the grievance report will be retained by the reviewing authority.

D. Appeal to the appropriate appellate authority:

III. INMATE MANAGEMENT

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1. If the offender feels the reviewing authority response was not satisfactory and chooses to appeal, the offender must appeal to the appropriate appellate authority within ten (10) days of the reviewing authority's response.
 2. The appellate authority has 21 calendar days from the receipt to respond and return the grievance report to the offender. If an extension is required, the offender shall receive written notification. Response time must not exceed a total of 30 days.
 3. When the offender feels that the complaint is of a sensitive or emergency nature; or that he/she may be adversely affected by the admission of the complaint at the initial level, the offender may address the complaint directly to the appropriate appellate level. The offender must indicate a valid reason for not bringing the complaint to the attention of the initial reviewing authority. If the offender does not provide a reason, or the reason supplied is not adequate, the complaint will be returned to the appropriate level for processing, with a written explanation to the offender and the timetable will be altered as provided in Section 3.C.(1).
 4. For incarcerated individuals the appellate authority shall be the Director. For probationers and parolees the authority shall be the Administrative of the Division of Parole and Probation.
- E. Appeal to the Director for probationers and parolees:
- (1) If the offender feels the response of the appellate authority was not satisfactory, the offender may appeal to the Director or designee within 10 days of receipt of the appellate authority's response.
 - (2) The Director or designee will send a response to the offender within 20 calendar days from receipt of the grievance report. The answer shall indicate findings of fact, conclusions made, and actions taken.
 - (3) A grievance form sent to the Director or designee without prior action by the appropriate reviewing authority or appellate level will be forwarded to the appropriate authority for response.
- F. In actions brought under 42 USC Sec. 1983 where a court has stayed an action for a period not to exceed 90 days in order to require an offender to exhaust the offender grievance process (42 USC Sec. 1997E), the offender shall attach a copy of the court's order to the grievance report form and submit the grievance to the reviewing authority within ten (10) days of the order. The reviewing authority shall establish deadlines so the grievance procedure will be completed at the Director's level within the court-ordered period of stay.

III. INMATE MANAGEMENT

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- G. All other offender grievances shall reach final disposition within 90 calendar days after original filing unless the grievant agrees in writing to an extension for a fixed period.
 - H. Expiration of a time limit at any stage of the offender grievance process will entitle the offender grievant to move to the next stage of the grievance process unless the offender has been notified in writing of an extension of the time necessary for response.
4. Distribution of responses to offender grievances
- A. The reviewing authority shall retain one copy of each offender grievance report for the unit grievance file, and return the original of the grievance to the offender.
 - B. The appellate authority in the case of probationers and parolees, shall send one copy to the appropriate reviewing authority, one copy to the appropriate facility file, and the original back to the offender.
 - C. The Director shall send a copy to the appropriate reviewing authority or appellate authority and one copy to the appropriate facility file. The original will be forwarded to the offender.
 - D. All offender grievance records shall be treated as confidential and shall be maintained in the appropriate facility file. Access is limited to those corrections employees who have a need for such information in the performance of their duties.
5. Offenders and employees were afforded an advisory role in the formulation and implementation of this procedure.
6. Any exceptions to the procedures in this memorandum shall require prior written approval from the Director.

GRIEVANCE SYSTEM FLOW-CHART

