

another addressee, please return the enclosure to the above address.”

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 540

[BOP-1054-F]

RIN 1120-AA52

Correspondence: Pretrial Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is amending its regulations on correspondence to require that general mail from pretrial inmates may not be sealed and may be read and inspected by staff. This amendment is intended to provide for the continued efficient and secure operation of the institution and to protect the public.

EFFECTIVE DATE: January 9, 1998.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on correspondence (28 CFR part 540, subpart B). A proposed rule on this subject was published in the Federal Register December 9, 1996 (61 FR 64954).

Provisions on general correspondence in § 540.14(b) and (c) previously specified that outgoing general mail from pretrial inmates may be sealed by the inmate and are not subject to inspection by staff. On December 9, 1996, the Bureau proposed to require that general mail from pretrial inmates be sent out unsealed and subject to inspection. The proposed requirement

matched the requirement for outgoing general mail from sentenced inmates in medium, high, and administrative facilities. Ordinarily, pretrial inmates are housed in administrative facilities. Because pretrial inmates are not classified as to levels of security (as sentenced inmates are), the proposed requirement would apply to pretrial inmates even if they happen to be housed in minimum or low facilities. Special mail, whether from pretrial inmates or sentenced inmates, was unaffected by the proposed amendment.

No public comment was received on the proposed rule, and the Bureau is therefore adopting the proposed rule as final without change.

Members of the public may submit further comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the Federal Register.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), does not have a significant economic impact on a substantial number of small entities, within the meaning of the Act. Because this rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, its economic impact is limited to the Bureau's appropriated funds.

List of Subjects in 28 CFR Part 540

Prisoners.
Kathleen M. Hawk,
Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 540 in subchapter C of 28 CFR chapter V is amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

1. The authority citation for 28 CFR part 540 continues to read as follows:

Authority: 5 U.S.C. 301, 551, 552a; 18 U.S.C. 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006-5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

2. In § 540.14, paragraphs (b) and (c) are revised to read as follows:

§ 540.14 General correspondence.

\* \* \* \* \*

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

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

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

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

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

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

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

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