

Response to Proposed CMRs

The following comments and/or questions concerning the below listed CMRs are submitted on behalf of the Board of Directors and members of the Lifers' Group, Inc. based at MCI Norfolk. The Lifers' Group, Inc. represents nearly 150 men who are serving life or long-term sentences.

We have organized our responses according to the scheduled hearing dates.

September 28, 2016:

105 CMR 157: Access to and Dissemination of Evaluative Information

157.10(4) - This section allows a victim, family member or witness to obtain "all available CORI of the person accused of or convicted of said crime." There is also a prohibition against sharing of the information by the recipient. WHAT provisions are in place or are planned to ensure that the information is in fact not shared with person not approved?

157.12(1) - We object to the deletion of not charging for copying services if the fee does not exceed \$2.00

157.12(2) - We object to the deletion of "No charge shall be made for indigent inmates."

We urge to DOC to retain both provisions. Indigent prisoners already have a difficult time surviving in the DOC without requiring them to go without daily necessities in order to receive a copy of vital records.

103 CMR 481: Inmate Mail

481.11(a) Privileged Mail - This section has been modified by inserting the word "government" in the definition of attorneys permitted to send and receive privileged mail. We ask that this insertion either be deleted or changed to read "government and private" so that all attorneys admitted to the bar can be protected by this privilege.

481.06 Definitions - The definition of "Publication" now inserts a further definition: "This definition includes any portion extracted, photocopies, or clipped from such items, provided, however, that an inmate may receive a maximum of five (5) pages per day, except Sundays and postal holidays, of a portion extracted, photocopied, or clipped from such items as an attachment to personal correspondence".

We believe this language imposes a severe First Amendment restriction on the prisoner and even more so, on outside parties and agencies wishing to impart their information to prisoners. As the world's publications and work products move to the Internet, fewer materials are being produced in freely available hard copy formats. Instead, more and more publications, including government publications, are now only available online. For example, the National Bureau of Justice Statistics, multiple federal agencies, and many private agencies (e.g. ACLU) require that reports be downloaded from the Internet and printed out.

Whether downloaded by the publishing agency or a third party, once printed and mailed to a prisoner, they will be labeled as contraband under this proposed addition to the CMR. This is not mere idle speculation. Some institutions, including MCI Norfolk, have already been engaging in such efforts based on internal, unofficial policies. This has handicapped prisoners wishing to keep abreast of world affairs, hometown news, and items of cultural significance. Such blatant First Amendment violation of rights of all parties to the free dissemination of information should not be permitted.

103 CMR 483 Visiting Procedure

103 CMR 483.01 - We object to the cumbersome and restrictive proposed Visitor Approval Process. Despite the DOC's explicit statement on the importance of visits to "help promote successful community re-entry," the DOC now plans to establish limits to the number of people who can visit a prisoner by creating a new pre-approved visiting card. This card establishes a limit of 5 visitors for those housed in Maximum security; 8 for those in Medium security; and 10 for those in Minimum security. Such limits forces prisoners with extensive outside support to pick and choose whom will visit them and may harm already established positive relationships. The proposed limits also prevent support groups, such as Partakers (who provide educational mentor teams that visit BU PEP students) and various church organizations from continuing to connect with prisoners through visits.

Further, although apparently not mentioned in the CMR itself, Attachment 3 ("Approved Inmate Visitor List") specifies that "Additions/deletions... shall be made no more than every six months." This further and severely restricts visiting and timely access by visitors as circumstances and needs change.

If all this were not enough, the proposed approval process is cumbersome, requiring each visitor to obtain a written application form and submit the complete form along with a copy of current photo ID. The application then is reviewed by institutional staff and the Director of Security before permission to visit is granted or denied. While the proposed change states that such approval or denial should be accomplished "within a reasonable amount of time," this process is clearly lengthy and, likely, slow.

Although not specifically addressed, it appears that visitors who wish to visit spontaneously will not be allowed to enter the institution. It is not uncommon for friends and family members who a prisoner is not in regular correspondence with to come to the institution for a "surprise" visit. Such visitors who are trying to perform an act of kindness may be coldly turned away.

October 4, 2016:

103 CMR 450 Inmate Funds

405.08(6) - The prisoner wage scale has ^{not} been updated in more than three decades. Over that same time, prices for commissary, appliances, and clothing have increased over 15%. We propose increasing the basic rates to:

- I. \$20.00
- II. \$15.00
- III. \$10.00

We also encourage adding language for all institutions that allows outside businesses to pay a prevailing wage (similar to what is used in the Pre-Release wage scale). This allows for a company to offer a program similar to the California computer coding class.

103 CMR 455: Correction Industries

455.10(7) - This section inserts new text that establishes that good time will be given "at the rate of 2.5 days per month." This may be an error since it appears that Correctional Industries good time is currently awarded at 5 days per month for work and another 5 days per month for program participation.

103 CMR 471: Religious Services

471.07 - We object to creating a sincerity test to determine whether a person can fully participate as a member of a faith. The Massachusetts Declaration of Rights specifically forbids any policy that prevents a person from exercising their chosen faith in the means they choose.

471.07 - We object to the language that allows a person to change their faith only once per year. Placing any arbitrary restriction on what faith a person chooses to practice and when they choose to practice it again goes against the Massachusetts Declaration of Rights.

October 6, 2016:

103 CMR 403: Inmate Property

403.3 Cancellation - The "grandfather clause" which has protected property interests of those who purchased and possessed items which, while meeting prior property regulations, now may not due to changes instituted by the DOC. With that clause being eliminated, WHAT protection will be put in place to ensure those who have purchased items under old property regulations will be able to retain said property?

403.06 Definitions - Publications - A limit of "five (5) pages per day... of a portion extracted, photocopied, or clipped... as an attachment" to be received in incoming mail as a publication has been added. This raises the following issues:

- An inmate has no control of the mail when it is received by either the Post Office or the institution, so why should multiple envelopes be denied if they, by chance or improper handling of the mail by correction personnel, arrive or are processed on the same day?
- This regulation merely increases the expense and work on citizens who correspond with prisoners.
- Most information now is accessible from the Internet as government agencies are increasingly only providing records, reports, and studies online. This regulation may in effect deny prisoners access to information directly affecting prisoners' daily lives. Either this change should be deleted or reasonable exceptions be provided.
- Is the DOC planning to apply this regulation to communications from attorneys, the courts, legislators, the DOC itself, or any other person

allowed to send in privileged correspondence? If not, then that needs to be explicitly stated in the regulation.

403.11 Approved Inmate Property

403.11(4) - The master list of approved items by security level should be included as part of the CMR, as in the past. This will give the Master List the force of law and will provide protection against alterations made at the institutional level. Merely posting said Master List in prisoner libraries simply does not provide sufficient protection.

403.11(B) Appliances/Accessories - Several prior approved items are not listed in as approved and need to be included. Among these are: a) mp3/mp4 players, b) musical instruments, c) accessories for musical instruments, d) receivers, e) table radios, f) extension cords, g) watches, and h) wedding bands. These items need to be specifically listed so that no confusion may ensue should overzealous corrections personnel decide to contraband any of these items because one or more are not specified in the CMR.

Future multi-media appliances, such as tablets, need to be included as well.

If all appliances are to be constructed of clear plastic, HOW does the DOC plan to deal with prisoners who own property purchased under past approved property CMRs, particularly, but not limited to, typewriters, televisions, radios, receivers, headphones? (See prior comments re: 403.03 Cancellation of the Grandfather Clause).

WHAT will the DOC's policy be for future purchases of approved items which are not available in clear plastic?

It would seem, if the DOC values fair and equitable treatment of prisoners, as is claimed in its Mission Statement, then all property purchased in accord with past Property CMRs would be allowed to be retained until replacements need to be purchased at the prisoner's option. One can only wonder how those who wrote this CMR would react if some authority came into their homes and confiscated pieces of property because some agency had decided *ex post fact* that the property was no longer "proper"?

401.14(D)(2) Use of Permission Slips - We object to this section's stipulation that a copy of the approved permission slip must be inserted by the vendor into any shipment sent to a prisoner. This is an unreasonable and impractical process because 1) such forms are retained by DOC staff and not returned to the prisoner, 2) it places an unreasonable burden on vendors, and 3) such forms are likely to be lost by vendors causing packages to be returned.

403.23 Property Transactions - A prohibition has been inserted against one prisoner retaining another prisoner's legal materials in his/her cell. We urge that this be deleted. It is our understanding that this prohibition contravenes certain legal decisions which would supersede this CMR. In addition, it is simply impossible for a prisoner skilled in law to assist another prisoner in legal matters if the skilled prisoner cannot have another's legal material to read.

We note that there is no time frame in the prohibition relative to the length of time for retention. What exactly does "retain" mean in the context of this regulation?

HEARING DATES & TOPICS

CMR Public Hearing Dates

All hearings begin at 10:00 a.m. at the McCormack Building, Ashburton Cafe Function Room, 1 Ashburton Place, Boston, MA 02108

September 27:

- 103 CMR 155 - Inmate Case Records
- 103 CMR 410 - Sentence Computation
- 103 CMR 411 - Deduction From Sentence Policy
- 103 CMR 420 - Classification
- 103 CMR 462 - International Transfer Policy
- 103 CMR 916, 917, and 918 - County Standards

September 29:

- 103 CMR 157 - Access to and Dissemination of Evaluative Information
- 103 CMR 180 - Research and Evaluation
- 103 CMR 481 - Inmate Mail
- 103 CMR 482 - Telephone Use and Access
- 103 CMR 483 - Visiting Procedures
- 103 CMR 485 - Volunteers and Volunteer Programs

October 4:

- 103 CMR 405 - Inmate Funds
- 103 CMR 455 - Correctional Industries
- 103 CMR 464 - Employment Programs Outside a Correctional Facility
- 103 CMR 471 - Religious Services
- 103 CMR 478 - Library Services

October 6:

- 103 CMR 403 - Inmate Property
- 103 CMR 430 - Disciplinary Procedures
- 103 CMR 431 - Observation of Behavior Reports
- 103 CMR 491 - Inmate Grievance
- 103 CMR 505 - Use of Force
- 103 CMR 457 - State School/Hospital Programs

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All written testimony and comments SHOULD be submitted by 5:00 PM on 9/27/16

CALL TO ACTION: Please attend these hearings and oppose the proposed changes of the DOC. These changes will just increase the hopelessness of the system and increase recidivism and diminish public safety.

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