COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF CORRECTION
STANDARD OPERATING PROCEDURE (SOP) FOR PRIVILEGED MAIL
103 CMR 481, *Inmate Mail*

PURPOSE: This Standard Operating Procedure (SOP) establishes guidelines for the internal management and processing of privileged mail consistent with 103 CMR 481.11, *Identification and Processing of Privileged Mail*. This SOP is applicable to all employees and inmates at all state correctional institutions, however, the Superintendent of MASAC and Bridgewater State Hospital may waive the applicability of this SOP in whole or in part.

I. PROCESSING OF OUTGOING AND INCOMING PRIVILEGED MAIL

A. PROCESSING OF OUTGOING PRIVILEGED MAIL

1. All outgoing privileged mail shall be collected from each housing unit's lockbox once daily, excluding Sundays and holidays, and processed through the institutional mailroom, where indigent inmate mail shall be re-directed to the institution Treasurer.

2. The institution Treasurer shall prioritize the processing of postage for indigent inmates sending privileged mail.

B. PROCESSING OF INCOMING PRIVILEGED MAIL IN THE MAILROOM

1. Privileged mail shall be sorted by the Mailroom Officer daily, excluding Sundays and holidays, and privileged mail shall be set aside in a designated area for delivery by an Inner Perimeter Security (IPS) Officer.

2. Privileged mail shall not be opened by a mailroom officer. Any inadvertent opening of privileged mail shall be documented in a confidential incident report.

3. In accordance with 103 CMR 481.11(3), incoming privileged mail may be required to successfully pass a fluoroscope examination for contraband material before being given to an inmate. The mailroom officer may complete this examination but shall not open the privileged mail at any point.

4. The IPS Officer who picks up the privileged mail from the mailroom shall log the privileged mail in the Privileged Mail Logbook prior to delivery to the inmate, noting the name of the inmate, number of envelopes, and sender information. After the envelope is opened in the inmate's presence, the number of pages per envelope shall also be documented in the Privileged Mail Logbook.

C. DELIVERY OF PRIVILEGED MAIL TO INMATES

1. Opening of Privileged Mail: Incoming privileged mail shall only be opened by an IPS Officer in the presence of the addressee inmate.

2. Location: Whenever possible, privileged mail will be delivered and opened in a central location with the Director of Security (DOS) or designee present. If a central location is not possible, then the DOS or designee shall be available whenever possible at the time the mail is delivered.

3. Gloves: IPS Officers shall wear gloves throughout the entire mail delivery process and change gloves in between delivery of separate pieces of mail, to include any photocopy process, as explained below.

4. Viewing Before Delivery: Before any privileged mail is inspected by an IPS Officer, the inmate shall be permitted to view and confirm the identity of the sender of the privileged mail, and view the contents of the mail, before accepting delivery. If the inmate declines to view and/or confirm the identity of the sender, or declines to sign for the privileged mail, the privileged mail shall still be delivered to the inmate, but the IPS Officer shall document the inmate's decision not to view and/or confirm the identity of the sender or accept the mail, in a confidential incident report.

5. Inspection: The IPS Officer shall open the privileged mail in the presence of the inmate and shall conduct an inspection in accordance with 103 CMR 481.11(3).

6. Privileged Mail Logbook: The inmate shall sign the Privileged Mail Logbook to acknowledge receipt of the privileged mail.

7. Decline to sign: If the inmate declines to sign the Privileged Mail Logbook, the inmate shall still receive the original mail, or photocopy as set forth below, and the IPS Officer shall document the inmate's decision not to sign in the Privileged Mail Logbook and in a confidential incident report.

D. SUSPICIOUS PRIVILEGED MAIL

1. Mail which is sent with an AVS Barcode will be presumed to be free of contraband, pursuant to 103 CMR 481.11(4)(d), and presumed to be legitimate.

2. The lack of an AVS Barcode may be considered in determining whether a mailing is suspicious and warrants photocopying. Privileged mail received without an AVS Barcode shall be processed in accordance with Section II (E) below.

3. If an IPS Officer determines that the privileged mail appears suspicious due to an unexplained odor, stain, distinct variation in texture or color, a substance on or between the papers, lack of an AVS Barcode or other obvious signs of tampering, the mail shall be presented to the DOS or designee whenever possible. The DOS or designee shall conduct an independent review and render a second opinion as to whether the mail appears suspicious. Common features of professional correspondence on privileged mail, such as the use of heavier or off-white letterhead paper, or the use of colored ink, shall not without more be considered suspicious.

4. If the DOS or designee renders a second opinion that the mail is suspicious, the IPS Officer shall immediately provide the inmate with a photocopy of the privileged mail item in the manner set forth in Section E below.

5. Prior to the end of their tour of duty, the IPS Officer and the DOS or designee shall each write a confidential incident report detailing the facts which render the mail suspicious. The report shall include information as to which pages, if not all, appear suspicious.

6. The IPS Officer shall take a color photograph of the suspicious piece of mail as it appears after opening.

E. PHOTOCOPIES OF INCOMING PRIVILEGED MAIL

1. Photocopies of privileged mail may be made only after the DOS or designee renders a second opinion that the mail appears suspicious.

2. All photocopies must be made in the presence of the inmate. If a photocopier is not present in the area where the privileged mail is delivered, the inmate shall be permitted to accompany the IPS Officer to another area to allow for photocopying of the suspicious mail.

3. The IPS Officer shall photocopy each page of suspicious mail individually, by hand, and may not use the feeder to make copies. The IPS Officer shall wear gloves throughout this entire process and change gloves in between photocopying separate pieces of mail.

4. The IPS Officer shall use disinfectant to clean the glass on the copier before and after making copies.

5. The inmate shall be present while copies are being made.

6. The IPS Officer shall inspect, but not read, the photocopy for clarity and ensure that all pages are present before presenting the photocopy to the inmate.

7. The inmate shall inspect the copy to ensure that all pages are present, and that each page is legible. In cases where the copy cannot be read, a new copy of the page in question shall be made.

8. The IPS Officer shall follow evidence chain of custody when packaging the suspicious privileged mail for delivery to the outside laboratory for testing.

   a. The suspicious privileged mail shall be properly documented and logged into the drug control evidence locker (pursuant to 103 DOC 506, *Search Policy*) while awaiting shipment to the outside laboratory for testing.

F. INVESTIGATION, DISCIPLINE, AND HOUSING OF INMATES

1. No inmate may be sanctioned pursuant to 103 CMR 430, *Inmate Discipline* or removed from general population on suspicion of sending or receiving mail falsely marked or labeled as privileged mail until a) a test from an outside laboratory is conducted and returns a positive result indicating the presence of an illicit substance, and b) sufficient evidence exists that the inmate attempted to introduce contraband.

2. No inmate may be issued a disciplinary report for introduction of contraband until a test from an outside laboratory is conducted and returns a positive result regarding the privileged mail, and sufficient evidence exists that the inmate attempted to introduce contraband.

3. An inmate's decision to decline to sign for, or decision to accept, privileged mail, standing alone, shall not constitute sufficient evidence that the inmate attempted to introduce contraband.

4. Between the time the suspicious mail is received, and the outside test is completed, the Department may investigate the legitimacy of the suspicious mail.

5. If the outside laboratory test does not indicate the presence of an illicit substance(s) that would preclude the mail's entrance into the correctional institution, the original mail will be retrieved from the laboratory and delivered to the inmate. An incident report shall be written by the IPS Officer delivering the return of the original privileged mail to the inmate to document such delivery.

II. PROCESSING OF INCOMING PRIVILEGED MAIL WITH THE ATTORNEY VERIFICATION SYSTEM

A. DEFINITIONS

Attorney Control Number (ACN): Unique number assigned by the Department to an attorney for the purpose of sending privileged mail to an inmate.

Attorney Verification System (AVS): System utilized by the Department to identify legitimate privileged mail, which may include, but is not limited to, pre-registration of attorneys wishing to send privileged mail to inmates, and the utilization of individualized stickers bearing a barcode.

AVS Barcode: The attorney specific barcode, generated by the AVS, which is affixed to the outside of the privileged mail.

B. GENERATING AN ACN

1. Attorneys, (except those attorneys the Department determines are employed by and representing a federal, state, or local government agency or government employee) who wish to send privileged mail to an inmate, should submit an Attorney Control Number Request Form (ACN Request Form).

   Attorneys who wish to send privileged mail to an inmate should utilize an AVS Barcode on all privileged mailings. Private attorneys sending legal correspondence to inmates who are appearing pro se in court should also use an AVS Barcode on all mailings to the pro se inmates, including those which enclose copies of pleadings filed in court, or discovery.

   Law students and paralegals will not be issued their own ACN numbers but will be permitted to send privileged mail to inmates using the AVS Barcode of their supervising attorney.

   Nothing in this section shall be construed to require courts, or any individual the Department determines is employed by and representing a federal, state, or local government agency or government employee that is permitted to send privileged mail pursuant to 103 CMR 481.10, to apply for an ACN Number or use an AVS Barcode on mailings to an inmate. Privileged mail from these outlined individuals shall be subject to the requirements of Section I of this SOP.

   ACN Request Forms shall be submitted via email at DOC.AVS@doc.state.ma.us or the United States Postal Service (USPS) to:

Massachusetts Department of Correction
Office of Communications and Administrative Resolution
C/O Attorney Verification System
50 Maple Street
Milford, MA 01757

2. The ACN Request Form must be completed in its entirety to include the attorney's name, telephone number, electronic mail address, and a valid Board of Bar Overseers number (or corresponding number for attorneys from another state). Upon receipt of these forms, designated Department employees shall cross reference the provided Board of Bar Overseers number with the information provided on the Board of Bar Overseers website (www.massbbo.org) or corresponding state website for out of state attorneys. As part of this review, it shall be verified that the provided bar number is active. Any incomplete forms will be denied and returned to the attorney via USPS or email with the reason(s) for denial. In addition, an attempt shall be made to contact the attorney via telephone call with the reason(s) for the denial.

3. All ACN Request Forms will be processed within a reasonable timeframe.

4. Attorneys assigned an ACN will be notified via email and in writing that their application for an ACN has been approved and will be provided a set of labels bearing the AVS Barcode. These AVS Barcodes will be sent via USPS to the address provided by the attorney on the Board of Bar Overseers website. The AVS Barcodes must be affixed to the outside of each envelope that is sent to the inmate. AVS Barcodes provided will be customized for each attorney at Department expense and will be tracked via the Department's internal system.

5. When all of the issued AVS Barcodes for an attorney have been used or the remaining AVS Barcodes are in short supply, it is the responsibility of the attorney to request an additional supply utilizing the contact information provided in Section II (B) (1). When contacting the Department, the attorney must identify the assigned ACN. Each time a request is made for an additional supply of AVS Barcodes, the designated Department employees shall cross reference the provided Board of Bar Overseers number with the information provided on the Board's website (www.massbbo.org) or corresponding state website for out of state attorneys. As part of this review, it shall be verified that the provided bar number is active. Additional AVS Barcodes will be sent to the address on file only in accordance with Section II (B) (4). At no time shall more than one hundred (100) AVS Barcodes be issued in a single mailing. Any attorney wishing to send large mailings of privileged correspondence to inmates, either on a one-time or regular basis, shall advise the Department

of the need for an increased supply of AVS Barcodes and the Department will provide the attorney with the necessary AVS Barcodes.

6. At no time shall an attorney disclose the ACN to an inmate or share the ACN or AVS Barcode with any other individual. Notwithstanding these prohibitions, attorneys may authorize persons (e.g., paralegals, law students, administrative support persons) working for the attorney to send privileged mail utilizing the attorney's AVS Barcodes. The supervising attorney whose AVS Barcode is being utilized assumes all responsibility for the contents of the privileged mail sent.

7. If any AVS Barcodes are missing or destroyed, the attorney to whom the AVS Barcodes were issued shall immediately contact the Department utilizing the email address provided in Section II (B) (1).

8. Attorneys who are denied an ACN will be notified of the denial in writing and advised of the reasons therefor.

C. ENCLOSURES IN PRIVILEGED MAILINGS

By enclosing documents (e.g., police reports, exhibits to a motion, court decisions/pleadings/briefs filed in any case, medical records, defense investigative reports) within a privileged mailing, the attorney is representing that the documents are related to privileged communications and that the documents are, to the best of the attorney's knowledge, free from contraband. If attorneys have any question as to the integrity of the documents being enclosed, they should photocopy the documents before sending and include photocopies, rather than originals, within the privileged mailing.

Non-privileged third-party documents, such as letters from family members or friends of an inmate or holiday or birthday cards, are not privileged mailings and may not be included in any privileged mailing. Such documents should be sent under separate cover, without an AVS Barcode, as regular mail.

D. PROCESSING OF PRIVILEGED MAIL BEARING AN AVS BARCODE

1. An IPS Officer shall pick up all privileged mail from the mailroom in the manner set forth in Section I of this SOP.

2. Prior to processing privileged mail bearing an AVS Barcode, an IPS Officer shall scan the AVS Barcode utilizing the Department's internal system.

3. Prior to the delivery, but after the inspection of all privileged mail, the IPS Officer shall remove the AVS Barcode from the envelope and shred it unless the mail item was identified as suspicious during the delivery

process, in which case the privileged mail shall be processed in accordance with Section I (D) and (E) of this SOP.

E. PROCESSING OF PRIVILEGED MAIL WITHOUT AN AVS BARCODE OR WITH AN INVALID AVS BARCODE

1. If no AVS Barcode is present and the mail item bears the return address of an individual noted in 103 CMR 481.10 who is not required to participate in the AVS System (as referenced in Section II [B] [1]), the IPS Officer shall deliver the mail in accordance with the procedure set forth in Section I to this SOP.

2. If no AVS Barcode is present, or the AVS Barcode is damaged and cannot be scanned, but the mail item bears the return address of an attorney required to participate in the AVS System, the following steps shall be taken:

   a. The mail item will be verified as privileged mail by the IPS Officer/designee via phone call or email to the sending attorney and the IPS Officer shall then deliver the mail in accordance with the procedure set forth in Section I (B) and (C) to this SOP.

   b. If the mail item cannot be verified within 24 hours excluding Saturdays, Sundays, and holidays, it will be opened and photocopied in front of the inmate in accordance with the procedures outlined in Section I (E) (2-7) of this SOP. The inmate will be provided a photocopy of the mail and the original will be returned to the sender with a memo stating the reasons for the return and instructions to resend the mailing with a AVS Barcode. A copy of this memo shall also be provided to the inmate for whom the mailing was intended. The IPS Officer shall generate a confidential incident report documenting the sender of the mail's information as well as the inmate to whom the mail was addressed.

   c. If, once opened, the privileged mail is deemed suspicious, it shall be processed in accordance with Section I (D) and (E) to this SOP.

3. If the AVS Barcode is found to be invalid, (e.g., the barcode was a facsimile of a valid Department produced AVS Barcode), the mail item shall not be opened but shall be returned to the sender with a memo stating the reason(s) for the return. The IPS Officer shall also generate a confidential incident report documenting the sender of the mail's information as well as the inmate to whom the mail was addressed. The IPS Officer shall also send an email to DOC.AVS@doc.state.ma.us to request that new AVS Barcodes be generated for the sending attorney and mailed to the attorney at the address listed on the Board of Bar Overseers website or out of state equivalent. In

addition, a system generated email will be forwarded to the Office of Investigative Services for further investigation.

Massachusetts Department of Correction
Privileged Mail
in accordance with 103 CMR 481, *Inmate Mail*

CONTROL NUMBER REQUEST FORM

To request a Control Number, transmit this completed form to the Massachusetts Department of Correction at DOC.AVS@doc.state.ma.us, or via USPS, at:

Massachusetts Department of Correction
Office of Communications and Administrative Resolution
C/O Attorney Verification System
50 Maple Street
Milford, MA 01757

Any questions regarding the completion of this form can also be communicated by any of those means or by calling 508-422-3439 or 508-422-3396.

The request will be processed, and a number will be provided via electronic mail within a reasonable time frame and barcodes will be mailed via USPS to the address listed on the Board of Bar Overseers website or out of state equivalent.

If barcodes are stolen or lost, notification must be made to the email address above as soon as possible.

At no time will the ACN or AVS Barcode be shared with an incarcerated individual or any other individual. Attorneys may authorize persons (e.g., paralegals, law students, administrative support persons) working for the attorney to send privileged mail utilizing the attorney's AVS Barcode. The supervising attorney whose AVS Barcode is being utilized assumes all responsibility for the contents of the privileged mail sent.

Requestor's Name:	Board of Bar Overseers Number or out of state equivalent:
Name of Law Firm/Law Office (if applicable):	
Telephone Number:	Email Address:

MASSACHUSETTS DEPARTMENT OF CORRECTION USE ONLY

Date Request Received:	Assigned ACN:	Date Request Returned: