

BP-A0288

Jan 17

U.S. DEPARTMENT OF JUSTICE

INCIDENT REPORT

FEDERAL BUREAU OF PRISONS

Part I - Incident Report

|   |                                 |                                   |                   |  |
|---|---------------------------------|-----------------------------------|-------------------|--|
| 1. Institution: FDC SHERIDAN  |                                 | Incident Report Number:           |                   |  |
| 2. Inmate's Name<br>SULLIVAN, CYRUS   | 3. Register Number<br>74918-065 | 4. Date Of Incident<br>12-19-2017 | 5. Time<br>3:00PM |  |
| 6. Place Of Incident<br>J-1 CELL 110  | 7. Assignment<br>FDC UNASSG     | 8. Unit<br>J-1                    |                   |  |
| 9. Incident: Threatening with bodily harm;<br>Refusing to obey an order;<br>Insolence towards a staff member. |                                 | 10. 203;<br>Code: 307;<br>312.    |                   |  |

11. Description Of Incident (Date: 12-19-2017 Time: 3:00 PM Staff become aware of incident)

(Page 1)

On December 19th, 2017 at 3:00 PM, I was conducting a search of cell 110 in the J-1 Housing Unit where inmates SULLIVAN, CYRUS (#74918-065) and RUSHFELDT, DAVID (#80243-065) were assigned. The first thing I noticed was a printed copy of a TRULINCS message between inmate SULLIVAN and Health Services, where inmate SULLIVAN is threatening medical staff by saying, "I'd best be getting that stuff real soon or it is on." I proceeded searching through his paperwork, briefly scanning some hand-written material, he wrote about his anger issues when inmate SULLIVAN opened the cell door and told me, "You don't have the right to read my legal work." I gave inmate SULLIVAN several direct orders to shut the door and go away, to which he refused and continued repeating, "No, I'm not going to let you read my paperwork!"

(Continued on Page 2)

|  |  |   |  |
|--|--|---|--|
| 12. Typed Name/Signature Of Reporting Employee<br>A. Rasmussen                  |  | 13. Date And Time<br>12-19-2017 4:00 PM                   |  |
| 14. Incident Report Delivered To Above Inmate By<br>(Type Name/Signature)<br> | 15. Date Incident Report Delivered<br>12/20/17 | 16. Time Incident Report Delivered<br>10 <sup>10</sup> AM |  |

Part II - Committee Action

17. Comments Of Inmate To Committee Regarding Above Incident

|   |   |
|---|---|
| 18. A. It Is The Finding Of The Committee That You:<br>____ Committed The Following Prohibited Act.<br>____ Did Not Commit A Prohibited Act.<br>____ Committed Prohibited Act Code(s) _____ | B. _____ The Committee Is Referring The Charge(s) To The DHO For Further Hearing.<br>C. _____ The Committee Advised The Inmate Of Its Finding And Of The Right To File An Appeal Within 20 Calendar Days. |
|---|---|

19. Committee Decision Is Based On Specific Evidence as Follows:

20. Committee action and/or recommendation if referred to DHO (Contingent upon DHO finding inmate committed prohibited act):

21. Date And Time Of Action: \_\_\_\_\_ (The UDC Chairman=s signature certifies who sat on the UDC and that the completed report accurately reflects the UDC proceedings.)

Chairman (Typed Name/signature) \_\_\_\_\_ Member (Typed Name) \_\_\_\_\_ Member (Typed Name) \_\_\_\_\_

The Warden is apprised of unusual circumstances pertaining to a request (e.g., inmates who have Central Inmate Monitoring assignments and/or disruptive group members) to correspond, for members of the same immediate family or for inmates who are a party or witness in the same legal action, for inmates housed in federal facilities.

Normally, the approval of mail correspondence privileges will apply to electronic messages generated via TRULINCS. The approval of correspondence privileges for both inmates will remain in effect even if either is transferred within the Bureau. The unit team will forward a copy of the approved mail correspondence to the mail room and trust fund staff for processing.

Unit team staff will review the status of previously approved correspondence during the inmate's classification/program review. When denying an inmate's request to correspond with immediate family, the unit manager will document the reason(s) for the denial.

**(2) The Wardens of both institutions must approve of the correspondence if one of the inmates is housed at a non-Federal institution or if approval is being granted on the basis of exceptional circumstances.**

The Warden documents a denial or the rationale for approving the request for an inmate to correspond with an inmate, who is an immediate family member or a party or witness in the same legal action, housed in a non-federal facility/contract facility.

The approval of correspondence privileges for the inmate will remain in effect even when the inmate transfers within the Bureau. Unit team will review previously approved correspondence for either of the above circumstances. Unit team will forward a copy of the approval for mail correspondence to mail room staff.

## 10. SPECIAL MAIL

### § 540.18 Special mail.

**(a) The Warden shall open incoming special mail only in the presence of the inmate for inspection for physical contraband and the qualification of any enclosures as special mail. The correspondence may not be read or copied if the sender is adequately identified on the envelope, and the front of the envelope is marked "Special Mail — Open only in the presence of the inmate".**

Incoming mail meeting these requirements must be treated per this rule. The Warden may, however, treat incoming mail that does not meet all requirements for special mail handling in the same fashion as special mail, including opening it in the inmate's presence and inspecting it only for contraband. For example, mail from the chambers of a Federal judge or from a Member of Congress should be given special handling even if it does not have a special mail marking on the envelope.

Similarly, mail from an adequately identified sender that contains markings similar to the phrase “Special Mail — Open only in the presence of the inmate” may be given special handling. Examples of similar markings include “Attorney-Client — Open only in the presence of the inmate” and “Legal Mail — Open only in the presence of the inmate.”

**(b) In the absence of either adequate identification or the “special mail” marking indicated in paragraph (a) of this section appearing on the envelope, staff may treat the mail as general correspondence and may open, inspect, and read the mail.**

**(c) (1) Except as provided for in paragraph (c)(2) of this section, outgoing special mail may be sealed by the inmate and is not subject to inspection.**

**(2) Special mail shall be screened in accordance with the provisions of paragraph (c)(2)(iii) of this section when the special mail is being sent by an inmate who has been placed on restricted special mail status.**

**(i) An inmate may be placed on restricted special mail status if the Warden, with the concurrence of the Regional Counsel, documents in writing that the special mail either has posed a threat or may pose a threat of physical harm to the recipient (e.g., the inmate has previously used special mail to threaten physical harm to a recipient).**

**(ii) The Warden shall notify the inmate in writing of the reason the inmate is being placed on restricted special mail status.**

**(iii) An inmate on restricted special mail status must present all materials and packaging intended to be sent as special mail to staff for inspection. Staff shall inspect the special mail material and packaging, in the presence of the inmate, for contraband. If the intended recipient of the special mail has so requested, staff may read the special mail for the purpose of verifying that the special mail does not contain a threat of physical harm. Upon completion of the inspection, staff shall return the special mail material to the inmate if the material does not contain contraband, or contain a threat of physical harm to the intended recipient. The inmate must then seal the special mail material in the presence of staff and immediately give the sealed special mail material to the observing staff for delivery. Special mail determined to pose a threat to the intended recipient shall be forwarded to the appropriate law enforcement entity. Staff shall send a copy of the material, minus the contraband, to the intended recipient along with notification that the original of the material was forwarded to the appropriate law enforcement entity.**

**(iv) The Warden shall review an inmate’s restricted special mail status at least once every 180 days. The inmate is to be notified of the results of this review. An**

**inmate may be removed from restricted special mail status if the Warden determines, with the concurrence of the Regional Counsel, that the special mail does not threaten or pose a threat of physical harm to the intended recipient.**

**(v) An inmate on restricted mail status may seek review of the restriction through the Administrative Remedy Program.**

**(d) Except for special mail processed in accordance with paragraph (c)(2) of this section, staff shall stamp the following statement directly on the back side of the inmate's outgoing special mail:**

**"The enclosed letter was processed through special mailing procedures for forwarding to you. The letter has neither been opened nor inspected. If the writer raises a question or problem over which this facility has jurisdiction, you may wish to return the material for further information or clarification. If the writer encloses correspondence for forwarding to another addressee, please return the enclosure to the above address."**

The stamp includes the above statement, the name and address of the institution and space for the date.

## **11. LEGAL CORRESPONDENCE**

### **§ 540.19 Legal correspondence.**

**(a) Staff shall mark each envelope of incoming legal mail (mail from courts or attorneys) to show the date and time of receipt, the date and time the letter is delivered to an inmate and opened in the inmate's presence, and the name of the staff member who delivered the letter. The inmate may be asked to sign as receiving the incoming legal mail. This paragraph applies only if the sender has marked the envelope as specified in § 540.18.**

28 CFR § 540.18 refers to Section 10 of this Program Statement.

Staff are expected to develop a master log containing the above information. The inmate may be requested (but not required) to sign the log, indicating receipt of the legal mail. If the inmate refuses, staff note this in the log.

**(b) The inmate is responsible for advising any attorney that correspondence will be handled as special mail only if the envelope is marked with the attorney's name and an indication that the person is an attorney, and the front of the envelope is marked "Special Mail — Open only in the presence of the inmate".**

**Legal mail shall be opened in accordance with special mail procedures (see § 540.18).**

28 CFR § 540.18 refers to Section 10 of this Program Statement.

**(c) Grounds for the limitation or denial of an attorney's correspondence rights or privileges are stated in part 543, subpart B. If such action is taken, the Warden shall give written notice to the attorney and the inmate affected.**

Part 543, subpart B, refers to the Program Statement **Inmate Legal Activities**.

Any violation of the attorney/client correspondence privilege is referred to Regional Counsel, who, in conjunction with the Office of General Counsel, may restrict the inmate or attorney from further correspondence privileges.

**(d) In order to send mail to an attorney's assistant or to a legal aid student or assistant, an inmate shall address the mail to the attorney or legal aid supervisor, or the legal organization or firm, to the attention of the student or assistant.**

See the Program Statement **Inmate Legal Activities** for information concerning Bureau recognition of an attorney's assistant or legal aid student assistant.

**(e) Mail to an inmate from an attorney's assistant or legal aid student or assistant, in order to be identified and treated by staff as special mail, must be properly identified on the envelope as required in paragraph (b) of this section, and must be marked on the front of the envelope as being mail from the attorney or from the legal aid supervisor.**

## **12. INMATE CORRESPONDENCE WITH REPRESENTATIVES OF THE NEWS MEDIA**

### **§ 540.20 Inmate correspondence with representatives of the news media.**

**(a) An inmate may write through "special mail" to representatives of the news media specified by name or title (see § 540.2(b)).**

28 CFR § 540.2(b) refers to Section 2.b. of this Program Statement.

Properly identified and labeled correspondence from an inmate who is not on restricted mail status to qualifying news media representatives is sealed and forwarded without inspection, directly and promptly. Properly identified and labeled correspondence from an inmate on restricted special mail status is also sealed and forwarded promptly, but may be subject to inspection per procedures in Section 10. If there is doubt whether a representative qualifies, contact the Public Information Officer in the Central Office.

**(b) The inmate may not receive compensation or anything of value for correspondence with the news media. The inmate may not act as reporter.**

**(c) Representatives of the news media may initiate correspondence with an inmate. Staff shall open incoming correspondence from representatives of the media and inspect for contraband, for its qualification as media correspondence, and for content which is likely to promote either illegal activity or conduct contrary to Bureau regulations.**

See the Program Statement **News Media Contacts** on other aspects of contact with news media.

### 13. PAYMENT OF POSTAGE

#### **§ 540.21 Payment of postage.**

**(a) Except as provided in paragraphs (d), (e), (f), and (i) of this section, postage charges are the responsibility of the inmate. The Warden shall ensure that the inmate commissary has postage stamps available for purchase by inmates.**

Mail room staff should obtain postage rate charts from the local servicing post office and place them where inmates ordinarily have access — the mail room or housing units.

(1) **Postage Sold by Commissary.** The inmate commissary must have available sufficient stamp denominations to allow mailing letters in excess of 1 ounce, but not requiring an additional first-class stamp.

(2) **Purchase Limitation.** The Warden issues local guidelines, which ordinarily limit an inmate's commissary purchase per visit to 20 postage stamps (denomination for first-class, domestic, 1-ounce mailing), or the equivalent; if such visits are limited to once per week or less, the Warden may authorize an additional purchase of stamps.

(3) **Inmate Possession of Postage Stamps.** The Warden issues local guidelines, limiting an inmate's possession of stamps at one time to no more than 60 (denomination for first-class, domestic, 1-ounce mailing), or the equivalent. The Warden may authorize possession of stamps to a specified amount in excess of this limit. The stamps are to be maintained by the inmate in the same manner the stamps are sold or in the manner provided by the unit manager.

(4) **Approval for Additional Purchases.** An inmate may be authorized to purchase (per commissary visit) more than 20 postage stamps (denomination for first-class, domestic, 1-ounce mailing), or the equivalent, only upon approval of the associate warden. This authority may not be delegated below unit manager.