

In view of the uncertainty of the span of life of a prisoner sentenced to confinement for the duration of his natural life, it is obviously impossible to compute one-half, or any other percentage thereof, in determining the eligibility date.

The Legislature, having this in mind, intended that all prisoners serving a sentence of life be given an eligibility date as provided for in section 11.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: EUGENE T. URBANIAK,
Deputy Attorney General.

MARCH 14, 1949.

HONORABLE SANFORD BATES, *Commissioner,*
Department of Institutions and Agencies,
State Office Building,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 8.

MY DEAR COMMISSIONER BATES:

First, you desire to be advised whether the chief executive officer of a State correctional or charitable institution is permitted to censor incoming mail intended for your patients and outgoing mail written by them and intended for other persons.

It is my opinion that the chief executive officers are permitted to censor both incoming mail intended for your patients and prisoners and outgoing mail written by them and intended for other persons.

I reach this conclusion because in June 1947, it was necessary to take up this general question with the Postal Authorities and on June 24, 1947, Frank Delany, Esquire, Solicitor for the Post Office Department, submitted Form 287 from the Office of the Solicitor of the Post Office Department, dated July 24, 1922, setting out portions of various opinions of the United States Attorney General's Office on the right of prison officials to open the letters of prisoners.

Mr. Delany in his communication advised that the principle of law that applies to inmates of penal institutions applies with equal force to patients in mental institutions under court commitment who have been declared incompetent. The general rule to be applied in a situation of this kind is that when the Post Office Department has delivered to the institution superintendent the mail intended for a prisoner or patient under his supervision that their jurisdiction and control over such mail is terminated. Conversely, the Post Office Department has no jurisdiction over mail written by a patient or prisoner until it is actually placed within the control of the Post Office Department. Mr. Delany said specifically:

"The Post Office Department recognizes the right on the part of the institution to exercise its discretion concerning mail matter addressed to or written by the inmate."

Such censorship is obviously necessary to prevent the bringing in of contraband and the planning of an escape involving the inmate or patient.

Second, you further desire to be advised whether the chief executive officer of a State correctional or charitable institution has the legal right to exclude undesirable persons from the grounds of the institution.

The Board of Managers of your institution has the right to exclude undesirable persons from the institution grounds where it appears that such persons endeavor to excite and arouse your patients and to create distrust and lack of confidence in the institution staff.

The Legislature, in R. S. 30:4-4, charged the Board of Managers with management, direction and control of the institution and stated that it would be responsible to the State Board of Control of Institutions and Agencies for the efficient, economical and scientific operation of the institution. It is, therefore, within the legal authority of your Board to promulgate rules and regulations designed to exclude undesirable persons from the institution grounds.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: EUGENE T. URBANIAK,
Deputy Attorney General.

MARCH 16, 1949.

HONORABLE SANFORD BATES, *Commissioner,*
Department of Institutions and Agencies,
State Office Building,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 9.

DEAR COMMISSIONER BATES:

You advise that a prisoner was committed to the New Jersey State Prison at Trenton on January 7, 1949, for the offense of carnal abuse, to serve a term of from two to three years. It seems further that there was a notation on the order of commitment that "Immigration authorities may take him at any time for deportation."

You further advise that the United States Immigration Officer was in your institution the other day and appears agreeable to arrange for the deportation of this subject.

You now desire to be advised whether the court in committing this prisoner can include a condition in the commitment that he may be turned over to the Immigration Authorities at any time for deportation. This, of course, would have the effect of terminating the sentence when the Immigration Authorities decided that they would accept him for deportation.

I am of the opinion that the condition attached to the commitment has no validity in the law, is, therefore, inoperative, and the prisoner is required to serve the sentence imposed upon him less any commutation time that he may be entitled to receive for good behavior or work performed. I find nothing in the statutes of this