

Accordingly, when you receive an order from the committing court directing that a prisoner be produced before it at a specific time and place, you are required to comply with the provisions thereof, assuming of course, that you receive a copy of said order certified under the hand and seal of the clerk of the court as being a true copy of the original.

In the event that it appears that such order has been entered more than 60 days after date of judgment of conviction, it is my opinion, and I advise you that you should, nevertheless, comply with the order.

This for the reason that your department and the several institutions under your jurisdiction are part of the Executive Branch of the Government and your function in respect to prisoners committed to your care is administrative and in no sense judicial.

If the court is in error in bringing a prisoner before it or in subsequently ordering his release, the responsibility is solely that of the court and it is the better practice in all such cases to advise your institutional officials to comply with court orders as above set out.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: EUGENE T. URBANIAK,
Deputy Attorney General.

ETU:hp

MARCH 29, 1949.

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

FORMAL OPINION—1949. No. 20.

DEAR MR. BATES:

The Warden of the State Prison has inquired concerning the recent opinion of this office to the effect that he may censor incoming and outgoing mail of the inmates in his institution.

He asks whether the opinion negatives the provisions of Section 17, Chapter 84, P. L. 1948 of the new Parole Law, which specifically provides by legislative mandate that prisoners may send uncensored mail to the Parole Board.

Second, he asks to be advised, if the answer to the first question is in the affirmative, whether this also means that mail from the Parole Board to the prisoner shall be uncensored.

It is my opinion, and I advise you that the Legislature was clearly within its right in providing in Section 17, Chapter 84, P. L. 1948, that a prisoner could be privileged to send uncensored mail to the Parole Board. Our previous opinion had no application to this situation and, therefore, does not negative the statutory enactment above cited.

This provision is found in the laws of many states and is included to insure that each prisoner shall secure substantial justice under the law by calling to the attention of the Parole Board any specific situation requiring attention which the Prison officials or the Parole Board may have overlooked.

Secondly, it is my opinion, and I advise you that the privilege does not extend to mail received from the Parole Board to the prisoner, for this is not within the contemplation of the language of the Law.

This for the reason that there is no necessity for the requirement that the prisoner receive an uncensored reply, for the action of the Parole Board becomes a matter of record in the file of the prisoner. There is the further possibility that some ingenious person might come into possession of Parole Board stationery, or even duplicate same, and thereafter direct improper communications within Parole Board envelopes indiscriminately to inmates of penal and correctional institutions.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: EUGENE T. URBANIAK,
Deputy Attorney General.

ETU:hp

MARCH 29, 1949.

MR. JOSEPH GIULIANO, *State Superintendent,*
Division of Weights and Measures,
Department of Law and Public Safety,
187 West Hanover Street,
Trenton 7, New Jersey.

FORMAL OPINION—1949. No. 21.

DEAR SIR:

Receipt is acknowledged of your interdepartmental communication of March 17, 1949, requesting the opinion of this office respecting the application of R. S. 51:1-93 to non-commercial scales. There is attached to such communication a letter from Arthur Sanders, Esq., counsel for the National Association of Scale Manufacturers, Inc.

It has been the policy and procedure for the Division of Weights and Measures to require all scales to be approved by your division as to type, construction and operation. This requirement has been applied to scales used in the purchase or sale of commodities or service known as commercial or trade scales and also scales which are not designed or used for the determination of quantities in buying and selling or in computing charges for services rendered, known as non-commercial or non-trade scales.

The question has now arisen whether non-commercial or non-trade scales are subject to R. S. 51:1-93 and require approval of your division as to type, construction and operation.

In my opinion, they are not subject to R. S. 51:1-93.