There are many types of correspondence that we receive from incarcerated individuals. Some letters have to do with a pending case, some have to do with a disposed case, and some have absolutely nothing to do with the clerk's office. This session includes tips on opening inmate mail, processing it, and getting it off of your desk in a timely and professional manner.
Melinda Fletcher has been practicing law since 1990, primarily as a prosecutor. As a prosecutor, Melinda has handled everything from speeding tickets to capital murder. For the last 15 years, she has worked for the Special Prosecution Unit as their sole appellate attorney. Splitting her work between writs, criminal appeals, and appeals from the civil commitment of sexually violent predators, Melinda has had a lot of jail and prison mail land on her desk.

Hon. Kari French was elected as Walker County’s first female county clerk in 2010. She was born and raised in Walker County. Prior to serving as county clerk, she was a local business owner as a Marketing Unit Director for Merchant Services with over 26 years experience in management, administration, organization, public relations and leadership. She is a graduate of Huntsville High School and holds a bachelor’s degree from Sam Houston State University in agriculture business management. French believes being active in the community is important. She participates and serves on various boards and committees throughout Walker County. Kari is 43 years old and has been married to her husband John for 21 years. They have two sons, Jacob 20 and Jeffrey 18.
Who is an Offender?

✗ Any individual who is incarcerated
✗ Every offender has the right of access
✗ Offenders may present any issue
Inmate Mail

✗ Public officials receive volumes of mail every week.
✗ Most of our mail comes from the jail or prison.
✗ County or District Clerk’s will process inmate mail.
✗ Inmate mail involves a valid request or relates to a case.
✗ Other mail can be threatening or they need of a favor.

This can range from wanting information on a marriage license, a reduction in their sentence or wanting to get let out for fear of their life.

What are Offender filings?

✗ Cases filed by TDCJ Offenders / usually appeals from Justice Courts.
✗ Usually includes an Affidavit of Indigence / Pauper’s Affidavit.
✗ Most, are suits that are filed against TDCJ and / or its employees.

Be mindful – District Clerk’s receive the majority of correspondence from inmates that are related to a case. County Clerk’s receive correspondence related to a case as well as property records, vital records and anything in between.
Content Inspection of General Correspondence

- Attorney-client privilege
- No correspondence from an offender to any legal correspondent may be opened or read.
- Correspondence can contain threats
- When an offender violates the law or the correspondence rules through legal correspondence, the offender may have legal mail privileges suspended.

Receiving Inmate Mail

#1 - Security! Security! Security!
- Wear gloves if you can
- Use a metal detector
- Feel the envelope for anything that’s not paper
- Tap the envelope to see if any powder or substance accumulates
- Document on the envelope the date received and open

Hate Mail
- Receive correspondence that is threatening
- Threatening mail should be forwarded to your District Attorney or Special Prosecution Unit for TDCJ.
- The inmate who sent the correspondence should be prosecuted against.
Receiving Inmate Mail

Substance in Envelope
× Do Not Open – contact authorities (Call 911)
× If you have already opened it and find there is substance – do not panic!

Packages
× Very rarely would you receive a package from an inmate.
× Treat with caution and/or refuse

What is a “Pen Pal”?
Offenders have nothing but time on their hands. Examples of some requests are:
× Requests for information
× Request of legal guidance
× Requests of Investigation

If you take the bait even once, you will become the inmate’s pen pal for life.
Sometimes they just get bored and write to tell us their story – with no request involved
How to Process an Inmate Filing

Conduct a search to determine if the Offender’s name is on the Vexatious Litigants

- Review the case for the following:
  - Affidavit or Unsworn Declaration of Inability to Pay Costs.
  - Affidavit or Unsworn Declaration Relating to Previous Filings.
  - Certified copy of Inmate Trust Account Statement
  - Written Decision from Grievance System.

If any items are missing, send a Missing Document letter to the Offender.

If all required items are in the file, type the following documents and send the case to the Judge.

- Order to Clerk to send case to Attorney General’s office
- Supplemental Order to Clerk authorizing to send a Bill of Costs to Trust Fund Dept.
- Order to TDCJ Inmate Trust

Upon return of file from Judge, send the following:

- To AG’s Office: Certified copy of all 3 Orders signed by Judge
- To TDCJ Inmate Trust Funds: Order to Withhold funds with Bill of Costs attached
- To Offender: Letter with a copy of the letter and information sent to AG and Trust Fund.

NOTE:
Letters from offenders claiming a crime has occurred and requesting that charges be filed, or asserting that this is a charge that the offender is filing, should be forwarded to the County or District Attorney.

Do not file the requested charge(s) yourself.
How to Process an Inmate Filing

Basically you will process as any other case with a few exceptions:
✗ For correspondence that relates to a current case you file as any normal case.
✗ For correspondence seeking legal information – No response.
✗ For correspondence that does not relate to a current case and does not seek to open a new case. “AKA” (Area 51) or (File 13)

Writs of Habeas Corpus

What is a Writ of Habeas Corpus?
✗ Is the remedy to be used when any person is restrained in his liberty.
✗ It is an order issued by a Court or Judge.
✗ To produce such person.
✗ Code of Criminal Procedure, Article 11.01
✗ Code of Criminal Procedure, Article 11.12
✗ Code of Criminal Procedure, Article 11.15

All Clerks have to file these writs as it is a Constitutional right to have access to the Courts as well as a Statutory right to file for the writ with the Clerk.
20 / 20

Questions that are usually asked by the Clerks

1. Do I have to answer inmate correspondence?

   No - unless it relates to the inmate's case or is a valid request.

   Texas Government Code 552.008
20/20 Questions

2. How do we respond if they are seeking advice for a case/suit?

We do not provide any legal advice or interpret any statutes, codes, laws, rules, regulations, case law, or other legal texts.

3. Can offenders request Public Information as a general request?

Yes – County Clerks often receive requests to inspect or copy records. This is on a case by case basis. You will need to read the correspondence to see if you can respond.
20/20 Questions

4. Do I have to provide case documents requested from offenders?

In general cases yes, in appeal cases usually no. If the appellant in a criminal case is not indigent, they will be required to pay for preparation of the trial record; there is no right to have one provided.

20/20 Questions

5. Do we provide copies of case record if the offender requesting is not a part of the suit?

No – we do not provide copies of any documents (free or paid) unless the inmate is a party to the case.
20/20 Questions

6. What do we do if the correspondence is for a case and the inmate did not list it?

If it is apparent it is case related and we are unable to easily identify the case based on the lack of information from the inmate, we return the correspondence for more information to be able to fulfill their request.

20/20 Questions

7. Can we charge for copies?

Yes – Code of Criminal Procedure Article 102.005 states that a defendant convicted of an offense in a county Court, a county Court at law, or a district Court shall pay for the services of the clerk. Copies are not free.
**20/20 Questions**

8. Do we accept a delivery from an inmate (COD – Cash on delivery)?

No - COD mail shall not be accepted for any offender and no offender shall be authorized to send mail COD, nor do we ever send any in return.

9. Can we charge offenders Inmate Trust Fund?

Yes - In 1995, section 501.014(e) of the Texas Government Code was enacted. The idea behind the statute was to provide a way to withdraw funds from an offender’s Inmate Trust Account to pay for the expenses listed in the statute.
20/20 Questions

10. Does the clerk need to send a copy of the original judgment with a new Order to Withdraw Funds when an offender is sent back to prison after his/her parole has been revoked?

Yes, TDCJ requires a new Order to Withdraw Funds with the amount of the outstanding balance on the order, along with a certified copy of the original judgment.

20/20 Questions

11. How do being imprisoned in a prison unit give that offender residency in that county?

A person is a resident of a county if the person has a good faith and intention to remain in the county and permanently and definitely make the county his home.
**20/20 Questions**

12. Do inmates have rights we should be aware of?

*Inmates retain basic First Amendment rights (i.e., free speech and religion) only to the extent that the exercise of those rights does not interfere with their status as inmates.*

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13. Do you have to respond if an inmate is requesting a copy of their Birth Record?

*Yes – they must follow the public rules and must pay for the record.*
20/20 Questions

14. Do you have to respond to an inmate requesting a Marriage License?

Yes - Per Family Code, Section 2.006. The party who will not be able to appear before the Clerk must complete and sign the Affidavit of Absent Applicant. You will need a copy of their Inmate I.D. Card.

20/20 Questions

15. What is a Republic of Texas Member?

The true Republic of Texas was a sovereign State that existed from March 2, 1836, to February 19, 1846. What we are referring to is the modern militia organization. They claim that the annexation of Texas by the United States was illegal and that Texas remains an independent nation.
20/20 Questions

16. If they are a Republic of Texas Member what do we do?

If the request is legitimate then we process it.
If it is not, we usually turn it over to the District Attorney’s Office for further investigation on what they are attempting to accomplish.

20/20 Questions

17. How do we know if a document from an inmate is fraudulent

A document or instrument is presumed to be fraudulent if, the document or instrument purports to create a lien or assert a claim against real or personal property or an interest in real or personal property and the document or instrument is filed by an inmate or on behalf of an inmate.
20/20 Questions

18. Do I send correspondence in response on my letterhead?

Yes, you would treat this as any other formal response from your office.

19. Do we make copies and forward them to others at the request of the inmate?

No – The clerk’s office does not make copies of filings and forward them to other people, departments or offices unless required to by law.
20/20 Questions

20. Is there a general letter to send for no response?

Yes – See Example.