

The Legalities of Inmate Mail Screening



MAILSECUR®

Fraudulent legal mail has become a preferred means for smuggling drugs and contraband into correctional facilities.

The Sixth Amendment limits how legal mail can be inspected forcing the insertion of time and resource intensive manual processes.

New terahertz (T-ray) technology detects drugs and contraband without opening the mail, while maintaining confidentiality.

Correctional facilities face complex challenges when it comes to effectively detecting drugs and contraband in inmate mail.

The sheer volume of incoming mail is a systemic issue throughout the entire industry, especially those corrections facilities having larger inmate populations, where it is common for thousands of new pieces of incoming mail to arrive daily, causing mail to stack up quickly.

Further complicating the process are the additional restrictions around the handling of legal mail. Legal mail is broadly classified as correspondence from an inmate's legal counsel or the court system. It is safeguarded under the Constitution by the cornerstones of the attorney-client relationship, namely confidentiality and attorney-client privilege. Since legal mail is constitutionally protected it has become a key avenue to smuggle all sorts of dangerous substances into facilities.

THE NEED FOR MORE EFFECTIVE SCREENING METHODS

Yet effective and safe mail screening is a critical factor in any interdiction strategy to stop drugs and contraband from getting to the inmate population. According to "The Detection and Prevention of Illicit Drugs in a Correctional Facility"¹, inmate mail is second only to intake areas when it comes to how drugs are being smuggled into facilities. With reduced visitation due to COVID-19, mail volume has increased and become a much more prevalent channel for introducing narcotics and contraband into facilities.

The manual processes put into place in the attempt to find the drugs and contraband further stretches the often limited budget, strains staff resources, and is only marginally effective at best. The problem is compounded by high unemployment rates impacting the entire corrections industry, with some states experiencing over 20% vacancy rates. Today's manual screening processes not only place an undue burden on staff, but also corrections officers and inmates alike at risk of injury, without effectively addressing the problem.²

¹ <https://www.fdle.state.fl.us/FCJEI/Programs/SLP/Documents/Full-Text/Brotchi,-George-paper.aspx>

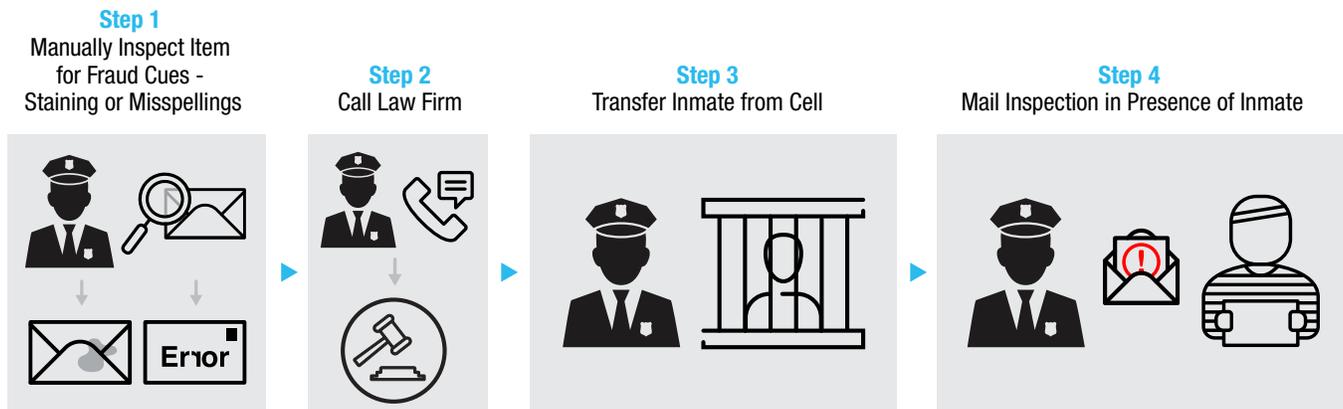
² <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2022/09/26/prison-staff-shortages-take-toll-on-guards-incarcerated-people>

Preserving these Sixth Amendment protections severely handcuffs a facility's ability to use traditional screening techniques to identify contraband in legal mail. These limitations and Constitutional safeguards resulted in the increased use of legal mail for smuggling drugs and contraband into correctional facilities.

CHALLENGES WITH EXISTING PROCESSES

Staff can conduct non-intrusive screening – visual inspection, X-ray, or chemical tests – of the unopened mail item itself. Yet most drugs and related contraband are sent in small enough quantities or are concealed in such a manner that they evade conventional screening techniques. In cases where staff have indications to suspect the presence of a dangerous substance or contraband, any additional steps taken must not infringe on the inmate's constitutionally protected rights.

Real-life example of a manual legal mail screening process:



Visual inspection is highly ineffective at detecting drugs and contraband concealed within the mail item, leading to prison officials taking further investigative efforts on the majority of legal mail. If a piece of mail is suspect, an officer calls the law firm, or legal entity, to determine the validity of the mailing, which may require repeated attempts to contact the responsible parties resulting in significant delays in mail processing.

If the materials are legitimate, the inmate will be moved to a screening area so the mail item can be opened in the presence of the inmate and the contents manually inspected. For privileged communications from a lawyer, the officials may need to obtain a warrant to open the mail, even when done so in front of the prisoner.

These additional steps for screening legal mail are time-intensive and consume significantly more staff than screening personal mail, placing additional strain on resources already stretched thin. More importantly, the process is largely ineffective. One of the most common methods of smuggling drugs through the mail involves soaking or treating papers with different types of drugs or chemical compounds, such as K2 or spice. One or more of these drug-laced papers may be intermixed with normal paper, and the laced papers themselves may be indistinguishable from normal copy paper to the naked eye.

ADDITIONAL SCREENING AND SECURITY CONCERNS

While a manual screening process seems straightforward, it raises a number of additional concerns that must be carefully considered.

When prison officials, including screeners, open the mail, even in front of the prisoner, they may still violate the inmate's right to privacy. Courts have noted that the screeners could potentially read the mail during the opening and inspection process, thereby infringing on the confidentiality of the communication, exposing the prison staff to lawsuits and jeopardizing prosecution.

It also introduces potentially significant safety and security risks for corrections staff. The first is exposure if a mail item does contain a dangerous substance. One recent incident in New York resulted in two corrections officers requiring medical treatment after encountering fentanyl during a mail screening.³ The second comes from inmate transfer. The simple act of moving an inmate from one area to another in the facility is one of the most dangerous activities for corrections officers. One example is two incidents in New York where corrections officers moving inmates were attacked and required hospitalization.^{4,5}

3 <https://www.syracuse.com/crime/2022/12/state-afinndds-rgeautardnms-alat-b2-eclnsy-prisons-were-exposed-to-fentanyl-other-drugs.html>

4 https://www.pressrepublican.com/news/local_news/co-union-two-officers-injured-by-inmate/article_aaa6bb30-7ce5-5613-9643-4122b87a10e9.html

5 <https://www.corrections1.com/officer-safety/articles/ny-co-slashed-in-face-with-razor-during-inmate-transfer-union-says-TwkJpHbQHK6Jq0Aw/>

For personal mail screening, some facilities now scan or photocopy the documents and provide the inmate with copies or digital files instead of the originals. While this will undoubtedly keep drugs and contraband from entering the inmate population, courts have not definitively ruled that it meets the confidentiality and constitutional privacy thresholds for legal mail screening as previously described. Often, third-party vendors are contracted to carry out this process, which requires them to open each piece of mail to scan it, thus leading to the same constitutional issues noted previously with officers opening the mail onsite. Additionally, digitizing the mail and creating electronic files introduces the risk of a cyberattack and/or data breaches.

Mail Screening Elevates Risk of Bodily Harm to Screeners and Corrections Officers:



- Exposure to dangerous substances
- Conflict with inmates during transfer

As noted earlier, prisons receive a lot of mail; therefore, it takes a lot of time to scan or copy it. This results in delays in inmates receiving their mail. It's even longer if the third-party vendor is out of state. In addition, inmate advocacy groups cite the delays as problematic and that the practice is cruel as it removes the human touch these items provide from their friends and family.⁶ Like all manual processes, they are not perfect and scanned document quality can be poor, illegible, or missing pages.

Some states are instructing lawyers to register with the facility to receive an approved control number which must be included on all materials sent to their client.⁷ Any correspondence that does not contain this number, will not be treated as privileged mail and will be considered fraudulent. This adds yet another layer of complexity to an already cumbersome manual screening process. It also causes delays in inmates receiving potentially critical legal documents if the firm has not registered. The approach is not foolproof as inmates may copy or create fraudulent control numbers, and recent cases have seen drugs sent from employees at law firms and even lawyers sending drugs and contraband in legal mail.⁸

Just these few examples make it clear that manual screening processes can't be relied upon to effectively and safely detect drugs or contraband in legal mail, nor can it assist in the adherence of maintaining privacy and confidentiality.

THE RAYSECUR ADVANTAGE

This is a complicated challenge without an easy answer – until now. With advanced T-ray imaging technology from RaySecur, corrections officials can detect drugs and contraband inside inmate mail – *without opening it*. This provides significant benefits as it maintains privacy rights, reduces screening time, and improves safety in several critical ways. First, it stops drugs and contraband from entering facilities. Second, it protects staff from exposure to harmful substances, and third, it allows original mail items to be scanned and delivered unimpeded quickly.

RaySecur's MailSecur T-ray scanner enables the quick, accurate detection of illicit drugs and contraband, including:



DRUG-LACED PAPERS

K2/K3, THC, raid, and other narcotics and chemicals



SUBOXONE STRIPS

concealed in letters, magazines, newspapers, and behind stamps and return labels



POWDER

methamphetamine, opioids, cocaine, heroin, and synthetic marijuana



ELECTRONIC COMPONENTS

including cell phones, SIM cards, storage devices, and USB connectors



OTHER CONTRABAND

sharps, currency, weapons

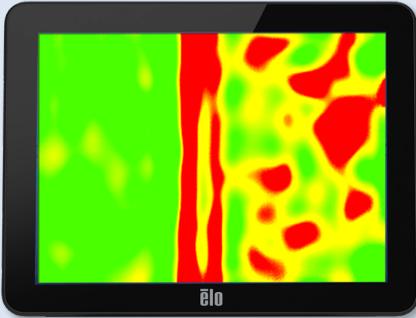
6 <https://www.wgbh.org/news/local-news/2022/09/21/advocates-and-families-press-mass-prisons-to-stop-photocopying-mail>

7 <https://privilegedmails.cor.pa.gov/>

8 <https://www.usnews.com/news/best-states/florida/articles/2022-01-08/cops-caught-florida-lawyer-trying-to-smuggle-drugs-into-jail>

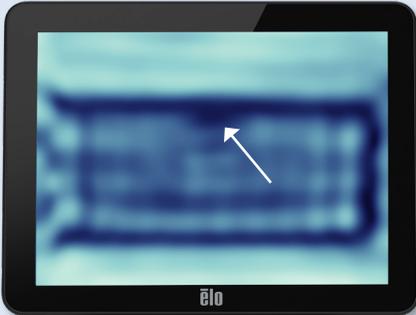
LACED PAPERS

10 sheets of paper within an envelope – paper treated with substance is highlighted in red



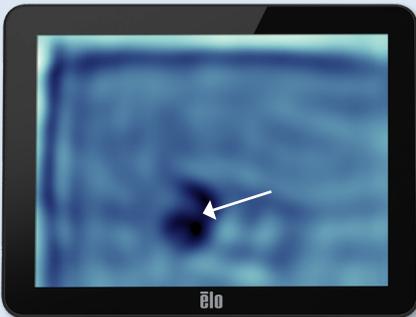
SUBOXONE STRIPS

Suboxone strip concealed in an envelope



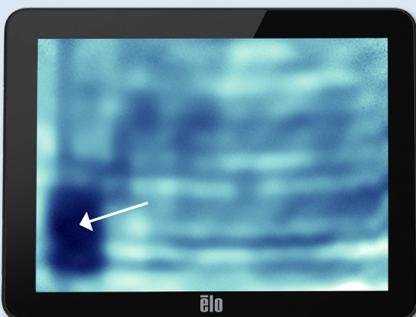
POWDERS

100 mg of white-powder concealed in envelope.



Contraband:

USB-C connector smuggled in notebook



MailSecur® T-ray imaging technology provides 4D image scans 300x more sensitive than X-rays to detect small quantities of liquids, powders, and other drugs. T-rays, unlike X-rays, are safe for humans, and as a result, mail handlers can place the item directly on the scanning deck and manipulate it to gain alternate views in real-time. The live-action video allows the operator to see grains of powder or liquid moving within an envelope or identify sections of paper previously soaked in drugs or other chemicals. It is also sensitive enough to detect the presence of suboxone strips hidden within the pages of a magazine or the folds of paper inside an envelope.

Anyone can operate MailSecur with minimal training, expanding the number of mail handlers that can perform screening and significantly reducing the training time needed to become proficient with the system. Since the system displays a real-time video, the mail handler can move quickly through the mail – letters, magazines, newspapers, small parcels - that require screening and complete the task in a fraction of the time required for the marginally effective manual processes largely used today.

The MailSecur scanner is a desktop unit that is a fully mobile solution. It can easily be mounted on a cart, powered by a battery, and moved to various locations throughout the facility as needed. This includes bringing the unit into cell blocks, eliminating the need to move inmates, thereby reducing risk and increasing overall safety.

IMPROVED FOCUS GENERATES SIZABLE RETURN

Several Department of Corrections facilities have deployed MailSecur and have achieved immediate results in detecting illicit drugs. Their mail screening process became analogous with the same approaches they already use for scanning email for cyber threats. In this case normal, unopened mail is scanned with MailSecur and quickly dispatched to the inmate while only abnormal or suspect mail is put aside for further investigation or rejected. It is the same concept as placing suspicious email into quarantine while allowing normal mail to be delivered without delay.

Corrections officers and screening staff used the T-ray technology to see inside the mail and move through the screening process much faster. They also drastically reduced the risk of staff exposure. Finally, it allowed them to demonstrate their commitment to staff safety and meet inmate privacy rights.

Improve the effectiveness of your legal mail screening,
ensure staff safety and meet privacy and
confidentiality requirements with MailSecur.

Contact us to get started today.



RAYSECUR®

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