

## 1.3.C.4 Inmate Personal Property

### I Policy Index:



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**Replaces Policy:** 4-A3  
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**Affected Units:** All Institutions  
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**Office of Primary Responsibility:** DOC Administration

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### II Policy:

Inmates may be allowed to possess some items of personal property; however, inmate personal property will be limited for safety reasons, health and hygiene concerns and to control contraband.

### III Definitions:

#### **Personal Property:**

Personal property includes all property owned by or in possession of an inmate not issued to the inmate by the Department of Corrections. Includes items an inmate is permitted to possess pursuant to applicable institutional operations memoranda and/or directives from the Warden. The ability to acquire and possess personal property is a privilege earned by each inmate and references to personal property do not establish an ownership interest in the property superior to the policies, rules and procedures of the institution. Failure to abide by the policies, rules and procedures of the institution may result in a loss of an inmate's privilege to acquire or possess items of personal property.

#### **Contraband:**

An item an inmate is not authorized to have or is prohibited by law or policy. Approved items may be contraband if altered, possessed in higher quantity than authorized, used in ways not intended or approved, or obtained through an unapproved source.

#### **Disposed:**

The destruction, transfer, discarding or donation of property.

### IV Procedure(s):

#### **1. Allowable Inmate Personal Property:**

- A. The Warden or designee at each institution will identify in writing, the personal property which may be retained by inmates housed at the institution. A comprehensive list will be maintained which will include the type and amount of personal property that may be retained and stored by inmates.

1. Limitations on the source(s) inmates may access to obtain items of personal property not offered by the contract commissary vender, such as certain craft supplies, religious and cultural items will be established and maintained by designated staff at each institution.
  2. Designated staff at each institution will establish quantity and space limits for inmate personal property. The amount of space assigned to each inmate may vary depending on the inmate's housing assignment and status and other factors.
  3. Inmates may not accumulate paper materials (including legal materials and documents) to the point where staff determines the materials pose a fire, sanitation, security or housekeeping hazard.
  4. Inmate personal property must fit in the assigned storage space or stored in approved storage containers unless otherwise exempted by the Warden or his/her designee.
  5. All unauthorized personal property in an inmate's possession at the time of admission to a DOC institution will be mailed out at the expense of the inmate to a destination of the inmate's choice, donated to charity, or destroyed. If an inmate refuses to provide a mailing address, the property may be disposed of through approved methods.
  6. Allowable personal property may vary depending on an inmate's housing placement and status.
  7. Inmates are not allowed to possess personal property (including legal documents or legal materials) belonging to another inmate.
  8. Religious items used in the practice of an inmate's chosen religion not posing a threat to the safe, secure and orderly operation of the institution may be authorized by the Cultural Coordinator or staff member of similar rank and authority.
  9. Each inmate is responsible for all personal property in his/her possession, on his/her person, in his/her living quarters, in his/her work area or in any assigned storage space/container.
- B. DOC staff is responsible for enforcing inmate compliance with personal property rules and guidelines established by the institution or policy.
1. Searches of an inmate's personal property will be conducted in part to ensure compliance with personal rules, consistent with DOC policy 1.3.A.5 [Searches – Institutions](#)).
  2. Possession of contraband by an inmate may result in disciplinary action. Contraband found in the inmate's possession will be confiscated, properly identified and processed in accordance to approved procedures (See DOC policy 1.3.C.2 [Inmate Discipline System](#) and SDCL § [24-2-26](#)).
    - a. Staff will dispose of confiscated items in accordance with accepted institutional practices and procedures.
    - b. Seized state property, if not altered, will be returned to the state. Seized state property that has been altered or damaged may be disposed of at the discretion of the Warden or his/her designee.  3. No alcoholic beverage, marijuana, or weapon, as defined in SDCL § [22-1-2\(10\)](#), may be possessed by any inmate. No prescription or nonprescription drugs, controlled substance,

as defined by Chapter [34-20B](#) or any article of indulgence may be possessed by an inmate except by order of a physician, PA or NP. Violation constitutes a felony.

- a. All such substances/materials found in possession of an inmate and/or seized by staff will be processed as evidence and may be delivered to law enforcement for criminal prosecution.
4. Damaged or altered personal property is subject to confiscation and will properly disposed of by staff.
  - a. Replacement costs for lost, damaged, modified or altered state property issued to an inmate may be charged to the inmate in accordance with DOC policy 1.3.C.2 [Inmate Discipline System](#).
5. Inmates are not entitled to reimbursement or compensation for personal property that has been lost, stolen, confiscated, sent out or otherwise disposed of by a staff member.
- C. Inmates may obtain personal property through the following methods:
  1. Authorized property retained by the inmate upon admission to the institution.
  2. Property issued to the inmate while in custody.
  3. Property purchased by the inmate through the institutional commissary system.
  4. Authorized property approved by staff to be mailed to the inmate or otherwise received.
- D. Inmate personal property may not be transferred between inmates without the approval of the Warden or his/her designee.
- E. Inmates may not trade, loan, barter, sell or give any item of personal property to staff, a visitor, contractor, volunteer or other inmate.

## **2. Forfeiture of Personal Property:**

- A. In addition to forfeiture of specified personal property as a result of a disciplinary sanction (see DOC policy 1.3.C.2 [Inmate Discipline System](#) and SDCL § [24-2-26](#)), inmates may be required to forfeit specified personal property items in accordance with DOC policy 1.3.C.4 [Forfeiture of Inmate Personal Property](#). Inmates who do not currently possess the personal property item specified for forfeiture will not be allowed to possess or acquire that item until the expiration of the sanction.
  1. If an inmate has requested a formal Administrative Remedy regarding the forfeiture of personal property, staff will pack the specified personal property item(s) in an approved storage container and store the property in a secure location until final disposition is reached for the request for Administrative Remedy (See DOC 1.3.E.4 [Administrative Remedy for Inmates](#)).
  2. Inmates must make arrangements with the property office to dispose of forfeited personal property.
    - a. Inmates are responsible for all costs associated with the disposal of forfeited personal property.

3. Inmate personal property that is or may be evidence in a pending investigation will be stored in a secure location.

### **3. Recording and Tracking Personal Property:**

- A. Each institution will develop procedures to record and track inmate personal property as required in the Comprehensive Offender Management System (COMS).
  1. The recording of inmate personal property does not create or infer liability of the DOC for the inmate's personal property.
  2. Any personal property reported by the inmate to be lost, stolen or missing will be listed on the inmate's property record as such. The inmate may be allowed to purchase replacement property, as authorized by staff. Inmates are responsible for reporting all lost, stolen, missing, damaged or destroyed property to the property office.
  3. If the lost, stolen or missing personal property item is located and can be returned to the inmate, the inmate will be required to send out or destroy any property item(s) in excess of what is allowed by the personal property list maintained by the institution.
- B. Inmates possessing personal property are required to sign the [Admission Document](#) (See [Attachment 1](#)).
  1. Inmates may be compensated for lost or damaged personal property if the loss or damage is determined to be caused by a negligent act or omission by a staff member.
  2. The DOC and its staff is not liable for damages, actions, claims, demands or expense or costs of whatever kind or character in connection to an inmate's personal property resulting from the acts or omissions by the inmate or another inmate(s).
  3. Personal property in an inmate's possession may be mailed out of the institution to a destination of the inmate's choice at the expense of the inmate, in accordance with DOC policy 1.5.D.3 [Inmate Correspondence](#).
  4. Inmate wedding bands, watches, earrings and medallions may not contain stones and will not have a value that exceeds \$35.00.
  5. Inmates may submit an Administrative Remedy (See DOC policy 1.3.E.4 [Administrative Remedy for Inmates](#)) for property claims involving lost or damaged personal property allegedly caused the actions of a staff member. Such claims will be forwarded to Risk Management (See DOC Policy 1.1.A.3 [Staff Reporting Information to DOC Administration](#)).
- C. The institution's property inventory system constitutes proof of ownership by the inmate of the personal property. The property inventory does not establish or provide proof of value of a personal property item.
- D. When an inmate is temporarily removed from an assigned cell for medical, behavioral health, court, placement on disciplinary or IP status, or other temporary reasons, staff will ensure the inmate's property is promptly removed from the cell, packed, inventoried and stored in an approved, secure location. As time and the situation allows, the inmate will be allowed to pack his/her property. Inmates may be eligible for the return of personal property upon return to the institution.

#### 4. Disposal of Personal Property:

- A. Each institution will establish procedures for, handling, reporting and disposing of all contraband and inmate personal property.
- B. Following an inmate's death, discharge or escape, all tangible personal property of the inmate may be sold, donated to charity, discarded, returned to an heir or used for the benefit of the institution, in accordance with SDCL § 24-5-5 and DOC policy 1.4.E.6 *Death of an Offender*.
- C. The institution will maintain documentation of discarded, donated or destroyed property for three (3) years from the date the property was disposed.
- D. The DOC, institution and its staff is not responsible for the personal property of an inmate who escapes or absconds from DOC custody.

#### V Related Directives:

SDCL §§ 22-1-2(10), 24-2-26, 24-5-5 and Chapter 34-20B.

DOC Policy 1.1.A.3 -- *Staff Reporting Information to DOC Administration*

DOC policy 1.3.A.5 – *Searches – Adult Institutions*

DOC policy 1.3.C.2 – *Inmate Discipline System*

DOC policy 1.3.C.4 – *Forfeiture of Inmate Personal Property*

DOC policy 1.3.E.4 -- *Administrative Remedy for Inmates*

DOC policy 1.4.E.6 -- *Death of an Offender*

#### VI Revision Log:

**October 2002:** Revised policy statement.

**June 2004:** Revised the policy statement **Added** the definition for contraband. **Added** references to policies 1.3.A.5, 1.3.C.2, 1.3.C.4 and the Inmate Living Guide. **Rearranged** the information in the policy into two sections.

**July 2005:** **Added** reference to attachment 1

**June 2006:** **Revised** attachment 1 **Updated** the policy name on 1.3.A.5.Required property documentation to be on the Citrix database.

**June 2008:** **Revised** formatting of policy in accordance with DOC policy 1.1.A.2 Policy and Operational Memorandum Management. **Replaced** “exempted” with “approved” in subsection (A3 of Allowable Inmate Personal Property section). **Revised** “Warden or his designee” to read “Warden or Designee” throughout policy **Replaced** “correctional” employees to “DOC” employees in subsections (B1 and B2 of Recording and Tracking Inmate Personal Property Revised attachment 1 with header, footer and hyperlink.

**June 2009:** **Deleted** SD DOC as it relates to Inmate Living Guide in ss (C2 of Allowable Inmate Personal Property).**Added** reference to Attachment 1 in ss (B of Recording and Tracking Inmate Personal Property).**Added** hyperlinks throughout policy. **Revised** Attachment 1 to include reference to this policy and updated picture of attachment within policy.

**June 2010:** **Revised** formatting of Section 1.

**July 2011:** **Added** definition of “Personal Property”. **Added** “such as craft supplies, religious and cultural items” to Section 1. A. 1.**Added** “This includes legal documents and materials” to Section 1. A. 2. **Added** “and be stored in approved storage containers” to Section 1. A. 3 **Added** 3. “All unapproved property, except money, in an inmate’s possession at the time they are admitted to the DOC shall be mailed to a destination of the inmate’s choice and at the expense of the inmate. Money shall be deposited into the inmate’s institutional account (see SDCL 24-2-5).” to Section 3. **Deleted** “his/her” in Section 1 B **Added** “established by the institution.” to Section 1 C. **Added** “and disposal” to Section 1 C. 2. **Deleted** “also” and **Added** “and disposal” to Section 1 C. 3. **Added** “lost, stolen, damaged” to Section

1. C. 5 **Created** Section 2 "Forfeiture of Property" **Added** 1. "Staff will only store forfeited property until the conclusion of any appeal the inmate pursues through the Administrative Remedy Process" to Section 2. A. **Added** a. "Inmates must make arrangements with the institution's property office to send out or destroy forfeited property" to Section 2. A. 1. **Added** "or its employees" to Section 3 A. 1. **Added** "at their own expense" to Section 3 A. 3 **Added** "absolves the DOC and all" to Section 3. B. **Added** "negligent" to Section 3 B. 1. **Added** Section 4. "Disposal of Inmate Personal Property" **Added** A. "Each institution will establish procedures for handling, reporting and disposing of all contraband and inmate personal property" **Added** 1. "Confiscation of contraband of forfeiture of inmate personal property is not theft as referenced in SDCL 22-30A-21" to Section 4. **Added** B. "Personal property not claimed following an inmate's escape or death will be discarded, donated to charity or destroyed by DOC staff." to Section 4. **Added** C. "The institution will maintain documentation of discarded, donated or destroyed property for a minimum of three (3) years." to Section 4.

**July 2012:** Reviewed with No changes.

**January 2013:** **Added** "or donated to charity or destroyed" in Section 1 A. 4. **Deleted** "a rule infraction" and **Replaced** with "an Offense in Custody" in Section 1 C. 2. **Deleted** "Category 5 Prohibited Act at any time or three Category 4 Prohibited Acts" and **Replaced** with "high or moderate Offense in Custody or three low Offenses in Custody" in Section 2 A. **Deleted** "on the Citrix database" and **Replaced** with "in COMS" in Section 3 A.

**July 2013:** Reviewed with no changes.

**June 2014:** **Added** "Consistent with the mission of the institution, each Warden will identify in writing the personal property which may be retained by inmates at the institution" in Section 1 A. **Added** "numerical" and **Added** "The amount of space provided to store property may depend on the number of inmates assigned to the institution and available space" in Section 1 A. 2. **Added** 3-6. in Section 1 A. **Added** a. & b. in Section 1 B. 2. **Added** 3. and 3. a. and 4 in Section 1. **Added** C. 1-4 in Section 1. **Added** D-E to Section 1. **Added** "Personal property may be mailed to a destination of the inmate's choice and at the expense of the inmate in accordance with DOC policies and institutional OMs" in Section 3 B. 2. **Added** a. to Section 3 B. 2. **Added** 3. & 4. to Section 3 B. **Added** E. & F. in Section 3. **Added** D. to Section 4.

**June 2015:** Reviewed with no changes.

**September 2015:** **Added** 8. to Section 1 A. **Added** a. to Section 2 A. 2. **Added** E. to Section 3.

**Updated** Attachment 1.

**June 2016:** **Added** definition of "Disposed". **Added** "or policy" in Section 1 B. **Added** "or give away" in Section 1 E. **Deleted** 6. in Section 3 B. **Added** "the property inventory does not establish" in Section 3 C. **Deleted** D. in Section 3. **Deleted** "cannot ensure the safety of inmate personal property from loss, theft or damage" and **Replaced** with "and its staff is not liable for damages, actions, claims, demands or expense or costs of whatever kind or character in connection to an inmate's personal property resulting from the" in Section 3 B. 2. **Deleted** "minimum of" and **Added** "from the date" in Section 4 C.

*Denny Kaemingk (original signature on file)*

Denny Kaemingk, Secretary of Corrections

07/23/2016

Date

