

1.3.C.4 Inmate Personal Property

I Policy Index:



Date Signed: 12/04/2018
Distribution: Public
Replaces Policy: 4-A3
Supersedes Policy Dated: 08/14/2017
Affected Units: All Institutions
Effective Date: 12/05/2018
Scheduled Revision Date: June 2019
Revision Number: 16
Office of Primary Responsibility: DOC Administration

II Policy:

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

III Definitions:

Contraband:

Any item which an inmate is not authorized to possess or is prohibited by law or policy. Approved items may be contraband if altered, possessed in higher quantity than authorized, used in ways not authorized or intended, or has been obtained through an unapproved source/means.

Disposed:

To dispose of through destruction, transfer, discarding or donation.

Personal Property:

Includes all approved property not issued to the inmate by the Department of Corrections.

IV Procedure(s):

1. Allowable Inmate Personal Property:

- A. A comprehensive list of allowed personal property will be maintained and kept current for each DOC facility. The property list shall include a description of the property and quantity which an inmate is permitted to have in his/her possession.
 1. Inmates may access to obtain personal property not offered by the contract commissary vender through approved venders, i.e. craft supplies, religious and cultural items and printed matter.
 2. Sufficient space shall be provided to inmates for the purpose of safely and securely storing personal property (ACA 4-4163). Property quantities and space limitations apply to all inmate property.

3. Inmates may not accumulate excessive amounts of printed matter (including legal materials) within their cell/room. Materials must fit in the approved space/container. Staff shall determine at what point excessive materials pose a fire hazard, sanitation concern or adversely impact the safety, security and disciplined operation of the institution.
 4. All unauthorized 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 or properly disposed of. If an inmate refuses to mail out the prohibited property, the property will be disposed of by staff.
 5. Inmates are not allowed to possess property (including legal materials) belonging to/issued to, another inmate.
 6. Inmates may possess religious property, as authorized by the Cultural Coordinator or designated staff (See DOC policy 1.5.F.4 *Inmate Religious and Cultural Activities*).
- B. Staff is responsible for enforcing inmate compliance with personal property rules and requirements. Inmate personal property is subject to search at any time.
1. Regular searches of inmate property will be conducted to ensure compliance with property rules and to identify threats to safety or security (See DOC policy 1.3.A.5 *Searches – Institutions*).
 2. Possession of contraband by an inmate may result in disciplinary action. Contraband may be confiscated, identified and processed, in accordance with approved institutional practices and procedures (See DOC policy 1.3.C.2 *Inmate Discipline System* and SDCL § 24-2-26).
 - a. Staff will dispose of confiscated items of contraband in accordance with accepted institutional practices and procedures.
 - b. Confiscated state property that has not been altered, damaged or destroyed will be returned to the state. Altered, damaged or destroyed state property will be removed from inventory and properly disposed of, at the discretion of the Warden or designee.
 - c. Inmates may be assessed all or a portion of the actual replacement cost for state property lost, damaged, modified or altered through the intentional actions of an inmate in accordance with DOC policy 1.3.C.2 *Inmate Discipline System*.
 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 in 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 or materials will be processed as evidence and may be delivered to outside law enforcement for criminal prosecution.
 4. Damaged or altered personal property is subject to confiscation and disposal.
 5. Inmates are not entitled to reimbursement or compensation for personal property that has been lost, stolen, confiscated, sent out or otherwise properly disposed.
- C. Inmates may obtain personal property through the following methods:
1. Authorized property retained by the inmate upon admission to the institution.

2. Property purchased by the inmate through the institutional commissary system.
 3. Property authorized by staff for the inmate to receive, either through and approved vender or delivered by the inmate's attorney (limited to legal items).
- D. Inmates may not trade, loan, barter, sell, give or transfer 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 personal property through disciplinary sanctions (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*.
1. Inmates who do not currently possess the personal property item specified for forfeiture will not be allowed to possess or acquire the item until the expiration of the sanction.

3. Recording and Tracking Personal Property:

- A. Each institution will follow a standardized system within the Comprehensive Offender Management System (COMS) to record and track specified items of inmate personal property
1. The recording of inmate personal property does not create or infer liability of the DOC or its staff for said property.
 2. Certain items of personal property reported by an inmate as 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 lost, stolen, missing, damaged or destroyed personal property to the property office or OIC.
 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 the inmate's possession that is in excess of established limits.
- 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 another.
 2. The DOC and its staff is not liable for damages, actions, claims, demands or expenses 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.
 3. Inmate personal property 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*. Select items of property sent out or disposed of must be documented on the inmate's property list.
 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 by the actions of a staff member.
 - a. Substantiated claims seeking settlement of the damaged item(s) must 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. The property inventory system does not establish or provide proof of value of a personal property item.
- D. The ability to acquire and possess personal property is a privilege. References to personal property do not establish an ownership interest in the property superior to policies, rules and procedures of the institution or DOC.
- E. When an inmate is temporarily removed from an assigned cell, including medical trips, court, placement on disciplinary or IP status or other temporary restricted status, staff will ensure the inmate's property is promptly removed from the cell, packed, inventoried and stored in a designated, secure location. As time allows, and when permitted, the inmate will be allowed to pack his/her property.

4. Disposal of Personal Property:

- A. Each institution will establish procedures for disposing of all contraband and inmate personal property, consistent with policy and state and federal law.
- 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, institutions and staff are not responsible for the personal property of an inmate who absconds from DOC custody. Inmate personal property left on DOC property after an inmate departs from DOC custody or supervision without proper authority is considered to be abandoned property. Staff are not responsible for inventorying, collecting or storing abandoned inmate personal property.

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](#)
DOC policy 1.5.F.4 -- [Inmate Religious and Cultural Activities](#)

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.

June 2017: Reviewed with no changes.

June 2018: Added D. to Section 4. Other changes to language within the policy.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

12/04/2018

Date

