

1.3.C.8 Pornography

I Policy Index:



Date Signed: 11/03/2020
Distribution: Public
Replaces Policy: 3C.5
Supersedes Policy Dated: 06/20/2016
Affected Units: All Institutions
Effective Date: 11/04/2020
Scheduled Revision Date: May 2021
Revision Number: 15
Office of Primary Responsibility: DOC Administration

II Policy:

The Department of Corrections (DOC) prohibits the purchase, possession, attempted possession and manufacturing of pornographic materials by inmates.

III Definitions:

Pornographic Material:

Includes books, articles, pamphlets, magazines, periodicals, or any other publications or materials that feature “sexually-explicit” conduct. Pornographic material may include books, pamphlets, magazines, periodicals or other publication or material that features photographs, drawings, etchings, paintings, or other graphic depictions of sexually explicit material. Any graphic depiction of nudity or pornographic material of minors is prohibited.

Feature:

Any books, articles, pamphlets, magazines, periodicals, or any other publications or materials which routinely and regularly feature pornography, or in the case of one-time issues, promotes itself based on pornographic content.

Nudity:

“Nudity” means a pictorial or other graphic depiction where male or female genitalia, pubic area, buttocks or female breasts are exposed. Published material containing nudity illustrative of medical, educational or anthropological content may be excluded from this definition.

Sexually Explicit:

“Sexually Explicit” includes written and/or pictorial, graphic depiction of actual or simulated sexual acts, including but not limited to sexual intercourse, oral sex or masturbation. Sexually explicit material also includes individual pictures, photographs, drawings, etchings, writings or paintings of sexually explicit conduct that are not part of a book, pamphlet, magazine, periodical or other publication.

Inmate:

Any person who has been sentenced or committed to or placed in a facility under the control of the South Dakota Department of Corrections.

IV Procedures:

1. Purchase, Possession and/or Attempted Possession of Pornographic Material:

- A. Any pornographic material is considered contraband.
- B. The purchase, possession, attempted possession or manufacturing of pornographic material by an inmate is a violation of certain Offenses in Custody (See DOC [Inmate Living Guide](#)).
 - 1. Any inmate found in violation of this policy may be subject to disciplinary action (See DOC policy 1.3.C.2 [Inmate Discipline System](#)).
 - 2. Materials believed to be in violation of this policy will be confiscated and may be used as evidence during the disciplinary process.
 - 3. Purchase, possession, attempted possession or manufacturing of pornography, erotica, or materials containing nudity by a sex offender is a violation of the Sex Offender Management Program (SOMP) (See DOC Policy 1.4.A.3 [Sex Offender Management Program](#)).

2. Institutional Guidelines:

- A. Warden's will ensure procedures are in place at each DOC facility housing inmates to prevent the introduction, transfer or manufacturing of pornographic material. Procedures will encompass at a minimum:
 - 1. Prevention of the introduction or movement of pornographic material through inmate correspondence or inmate visits (See DOC policies 1.5.D.1 [Inmate Visiting](#) and 1.5.D.3 [Offender Correspondence](#)).
 - a. All incoming and outgoing correspondence or publications depicting pornography or containing pornographic material will be rejected (See DOC policy 1.5.D.3 [Offender Correspondence](#)).
 - 2. Each facility shall identify staff that has the authority to determine if a particular item meets the definition of pornographic material, as described within policy.
- B. If an inmate disagrees with a decision that a particular item meets the policy definition of pornographic material, the inmate may appeal the decision through the administrative remedy process (See DOC policy 1.3.E.2 [Administrative Remedy for Inmates](#)).
- C. Staff will not introduce or receive pornographic material inside a DOC facility or on the grounds of a DOC facility (See DOC policy 1.3.A.10 [Restrictions on Electronic Equipment](#)).

3. Incoming Correspondence and Viewing Rooms:

- A. All incoming correspondence will be reviewed as set forth in DOC Policy 1.5.D.3, Inmate Correspondence.
- B. Any material containing pornographic material will be rejected in accordance with DOC Policy 1.5.D.3, Inmate Correspondence.
- C. Any material containing nudity and/or sexually explicit conduct that is not featured in the material will not be rejected, but instead will be forwarded to the facility's established viewing room.

1. Digital images containing nudity and/or sexually explicit conduct will not be permitted.
 2. The inmate will be notified that he/she has received such correspondence.
 3. Such material is permitted only in the designated viewing rooms. Inmates are prohibited from possessing such materials outside of the designated viewing rooms.
 - a. Inmates found possessing such material in violation of this policy may be subject to disciplinary action. (See DOC Policy 1.3.C.2, Inmate Discipline System)
- D. Each facility will designate an area that will be used for the viewing of the materials described herein.
1. Each facility will establish guidelines and procedures regarding the storage of said materials as well as inmate access to the designated viewing area.

V Related Directives:

DOC policy 1.3.C.2 – [Inmate Discipline System](#)
 DOC policy 1.4.A.3 – [Sex Offender Management Program](#)
 DOC policy 1.3.E.2 – [Administrative Remedy for Inmates](#)
 DOC policy 1.5.D.1 – [Inmate Visiting](#)
 DOC policy 1.5.D.3 – [Offender Correspondence](#)
[Inmate Living Guide](#)

VI Revision Log:

October 2002: Revised term facility to institution throughout policy.

October 2003: Moved some information into a separate section on Institutional Guidelines.

June 2004: Changed “inmate” to “offender” Added definition of offender Changed affected units to All Institutions Added a reference to policies 1.3.C.3, 1.3.E.2 and 1.3.E.3 and the *Juvenile Offender Living Guide*.

July 2005: Added references to DOC policies 1.5.D.2 and 1.5.D.3.

June 2006: Revised the policy name on 1.3.C.3 and 1.5.D.3 Added reference to policy 1.5.D.1.

July 2007: Revised the policy statement Revised the definition of offender Added a reference to DOC policy 1.5.G.2.

May 2008: Revised formatting of policy in accordance with DOC policy 1.1.A.2 Policy and Operational Memorandum Management policy Changed “detainer” to “detainee” in the definition of Offender. Revised “Visiting with Inmates” to read “Inmate Visiting” in subsection (A1 of Institutional Guidelines) to be consistent with the policy’s title.

June 2009: Revised definition of “Pornographic Material”, added definition of “Nudity”, “Sexually Explicit” and added reference to South Dakota as it relates to DOC in definition of Offender all within Definitions section.

Replaced former ss (A3 of Institutional Guidelines) with statement regarding coordinating information to keep standards consistent amongst institutions Revised title of DOC policy 1.5.D.1 within Section V. Added hyperlinks throughout policy.

June 2010: Revised formatting of Section 1.

June 2011: Added “articles”, “describes, depicts”, “etchings, paintings” to definition of Pornographic Material.

Added “pubic area”, “buttocks” to definition of Nudity Added “etchings, paintings” to definition of Sexually Explicit.

June 2012: Added “The purchase, possession or attempted to possession of pornography by a sex offender is a violation of the Stop Contract” in Section 1 B. 3. Added a. “All incoming and outgoing correspondence or publications depicting pornography or containing pornographic material shall be rejected” in Section 2 A. 1.

May 2013: Added “and manufacturing” to II Policy. Deleted “describes, depicts” in definition of Pornographic Material. Added “graphic” and “writings” to definition of Sexually Explicit. Added “or manufacturing” and

Deleted “prohibited acts” and **Replaced** with “offenses in custody” in Section 1 b. **Added** “or manufacturing” in Section 1 B. 3.

May 2014: **Reviewed** with no changes.

May 2015: **Deleted** 3. in Section 2 A.

May 2016: **Deleted** “offenders housed in DOC institutions” and **Replaced** with “inmate” in policy statement.

Deleted definition of “offender” and **Replaced** with definition of “Inmate”. **Deleted** term “offender” and **Replaced** with “inmate” throughout policy. **Deleted** reference to “Superintendent” in the policy. **Deleted** “from being brought into an institution” and **Replaced** with “introduction, transfer or manufacturing of pornographic material” in Section 2 A. **Deleted** C. “Staff will not introduce or receive pornographic material inside a DOC facility or on the grounds of a DOC facility”. in Section 2.

October 2020: **Added** “or any other” and “Any graphic depiction of nudity or pornographic material of minors is prohibited.” to definition of Pornographic Material. **Deleted** “nudity or”, “or includes” and “of nudity or” from the definition of Pornographic Material. **Added** definition of Feature. **Deleted** “nudity or” from the definition of Sexually Explicit. **Added** “erotica, or materials containing nudity” to Section 1 B.3. **Deleted** 1.3.C.9 Sex Offender Restrictions and **Replaced** with 1.4.A.3 Sex Offender Management Program in Section 1 B.3. **Added** Section 3. Incoming Correspondence and Viewing Rooms. **Deleted** policy reference 1.3.C.9 Sex Offender Restrictions and **Replaced** with 1.4.A.3 Sex Offender Management Program under the Related Directives section.

Mike Leidholt (original signature on file)

11/03/2020

Mike Leidholt, Secretary of Corrections

Date