

## 1.3.C.8 Pornography

### I Policy Index:



**Date Signed:** 03/19/2021  
**Distribution:** Public  
**Replaces Policy:** 3C.5  
**Supersedes Policy Dated:** 11/03/2020  
**Affected Units:** All Institutions  
**Effective Date:** 03/19/2021  
**Scheduled Revision Date:** May 2022  
**Revision Number:** 16  
**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:

#### **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.

#### **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.

#### **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.

#### **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.

#### **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.

## 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 [Inmate 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 [Inmate 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 1.1.C.12 [Staff Use of State Computer Equipment and Technology](#)).

### 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, logged, and placed into secured storage.

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](#)).
  4. Inmates are allowed no more than four (4) published materials, and ten (10) photographs or loose-leaf paper items in their file.
- 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.

#### **4. Viewing of Material**

- A. Inmates will be required to kite their assigned facility personnel to sign up for a viewing time.
- B. Upon arrival at the Viewing Room inmates must sign in with staff, at which time staff will provide the inmate's file for review.
- C. Staff will verify the contents of inmate's file to ensure that the number of materials does not exceed the number of materials allowed.
- D. Material may only be viewed in the viewing room and may not be removed for any reason.
- E. Material cannot be shown to other inmates or shared in any manner.
- F. Any material that is altered, torn, or damaged will be considered contraband and handled in accordance with policy.
- G. Materials must be returned to staff at the end of the viewing session.
- H. Each occupied viewing room will be monitored by staff at all times.
- I. Failure to follow viewing room rules will result in a 30 day suspension of viewing room privileges.

#### **5. Disposal of Material**

- A. Inmates may choose to have items which are within the allowable property limits purged from their files *at any time*.
- B. Material in excess of the number allowed is considered contraband and will be purged on a first in-first out basis.
  1. An inmate will be notified of items purged and will have 30 days to either:
    - a. Provide an addressed envelope with the appropriate postage to the Cultural Activities Coordinator in order to have material mailed out; or,

- b. Request the materials be destroyed.
- C. Staff will dispose of the materials exceeding the 30 days, or designated to be destroyed, by placing in the unit's contraband barrel.
- D. Inmates who refuse to purge materials are subject to disciplinary action. (See DOC policy 1.3.C.2 Inmate Discipline System).

## V Related Directives:

DOC policy 1.1.C.12 – [Staff Use of State Computer Equipment and Technology](#)  
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 – [Inmate 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.

**March 2021:** **Deleted** 1.3.A.10 Restrictions on Electronic Equipment and **Replaced** with 1.1.C.12 Staff Use of State Computer Equipment and Technology in Section 2 C. **Added** “logged, and placed into secured storage” in Section 3 C. **Added** item 4 to Section 3 C. **Added** Section 4. Viewing of Material. **Added** Section 5. Disposal of Material. **Added** Attachment 1. **Changed** reference to “Offender Correspondence” to “Inmate Correspondence” throughout.

*Mike Leidholt (original signature on file)*

Mike Leidholt, Secretary of Corrections

03/19/2021

Date

## Attachment 1: Viewing Room Material Notice – Inmate

The **Viewing Room Material Notice – Inmate** may be accessed as an IWP in COMS.

The gray areas indicate the information that is to be entered.

VIEWING ROOM MATERIAL NOTICE - INMATE			
To:	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Inmate's Last Name	First Name	DOC#
<p>You have received correspondence containing nudity and/or sexually explicit material deemed appropriate for viewing pursuant to DOC policy 1.5.D.3 <i>Inmate Correspondence</i>, and DOC policy 1.3.C.8 <i>Pornography</i>. This correspondence material has been forwarded to your housing unit's viewing room.</p>			
<p><input type="checkbox"/> No material has been purged from your viewing room file.</p>			
<p><input type="checkbox"/> Viewing room material with the oldest date logged has been purged from your file as the number of items exceeded limits set forth in DOC policy 1.3.C.8 <i>Pornography</i>. Pursuant to SDDOC Policy 1.5.D.3, <i>Inmate Correspondence</i>, you have 30 days from the date of this notice to send out excess material. To do so, notify the Cultural Affairs Coordinator. Failure to do so will result in the destruction of the excess material.</p>			
<p>To view materials, follow the procedure and rules set forth and outlined in DOC policy 1.3.C.8 <i>Pornography</i>. It is your responsibility to read, understand and follow all facility rules. Failure to do so will result in disciplinary action pursuant to DOC policy 1.3.C.2 <i>Inmate Discipline System</i>.</p>			
<ul style="list-style-type: none"><li>• Upon receipt of this notice, kite your unit control pod for a viewing time.</li><li>• Based on availability and room limitations, selected inmates will be allowed, at a maximum, one 20 minute session per day to visit the viewing room.</li><li>• Spots will be limited, based on demand, and will be filled on a first come, first served basis.</li><li>• Sign in with staff upon arrival at the viewing room, at which time staff will provide your file for review.</li><li>• Verify the contents of your file with staff. Contents are subject to limitations set forth in DOC policy 1.3.C.8 <i>Pornography</i> and must be in compliance prior to viewing.</li><li>• Material in excess of the limitations are considered contraband and will be removed to be mailed or destroyed.</li><li>• Materials may only be viewed in the viewing room and may not be removed by inmates for any reason.</li><li>• Materials cannot be shown to other inmates or shared in any manner.</li><li>• Materials altered, torn, or damaged are considered contraband.</li><li>• Materials will be returned to staff at the end of the viewing session.</li><li>• Failure to follow viewing room rules will result in a 30-day suspension of viewing room privileges.</li></ul>			
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Staff Member's Name	Signature	Date	
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