

1.3.D.2 Capital Punishment Housing

I Policy Index:



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II Policy:

The Department of Corrections (DOC) will arrange for and provide a proper and suitable place within designated DOC institutions for the custody of inmates sentenced to death.

III Definitions:

Senior Security Officer:

The Deputy Warden at the South Dakota State Penitentiary, Mike Durfee State Prison and Deputy South Dakota Women's Prison are the Senior Security Officers. The senior security officers are responsible for the same duties at ancillary units that fall within the supervision of their facilities.

Security Perimeter:

Fences and/or walls (including the exterior wall of a building) that provide for the secure confinement of offenders within a facility. All entrances and exits of a security perimeter are under the control of facility staff, thereby preventing an offender from leaving the facility unsupervised or without permission.

IV Procedures:

Establishment of Capital Punishment Housing Unit:

- A. The South Dakota State Penitentiary (SDSP), which includes the Jameson Annex, and the South Dakota Women's Prison (SDWP), will provide a proper and suitable place within the maximum custody level area of the facility to house inmates sentenced to death (See SDCL § [23A-27A-33](#)).
 1. Male capital punishment housing inmates will be housed at SDSP. Female capital punishment housing inmates will be housed at SDWP.
 2. The respective Wardens at SDSP and SDWP will designate the location within their facilities for housing capital punishment inmates.
 3. Any cell housing a capital punishment inmate will be distinctly marked to alert anyone in the area of this fact.

- B. Inmates sentenced to death will be placed in capital punishment housing immediately upon their arrival at either SDSP or SDWP.

4. Access to Capital Punishment Housing Inmates:

- A. Pursuant to SDCL [23A-27A-31.1](#), no one will be allowed access to a capital punishment inmate without an order of the trial court; except for Department of Corrections staff, the inmate's counsel, members of the clergy (if requested by the inmate) and members of the inmate's family (See DOC policy 1.5.D.1 [Inmate Visiting](#)). Members of the clergy and members of the inmate's family are subject to approval by the Warden before being granted access to the inmate.
 - 1. For the purposes of this policy, members of the inmate's family will include father, mother, stepfather, stepmother, brothers, sisters, stepbrothers, stepsisters, biological/legally adopted children, and spouse.
 - 2. Media representatives are not permitted to visit in person with a capital punishment housing inmate; however, capital punishment housing inmates may maintain access to the media by following the DOC procedures for correspondence and/or telephone usage (See DOC policies 1.1.A.4 [Relationship With News Media, Public and Other Agencies](#), 1.5.D.3 [Offender Correspondence](#) and 1.5.D.4 [Inmate Access to Telephones](#)).
- B. Whenever possible, staff will conduct business with capital punishment inmates on the inmate's assigned housing unit.

3. Capital Punishment Housing Restrictions:

- A. Capital punishment inmates are exempt from participating in certain admission and orientation services and other programs.
- B. Inmates in capital punishment housing will be maintained on maximum custody level status and will not be employed in any capacity (See DOC policies 1.4.B.2 [Male Inmate Classification](#) and 1.4.B.14 [Female Inmate Classification](#)).
 - 1. Capital punishment inmates will be housed one (1) inmate to a cell.
 - 2. Unless extenuating circumstances exist, capital punishment inmates will not be allowed to have personal contact with inmates in general population.
 - 3. Capital punishment inmates will have meals brought to them by staff. They will eat their meals in their assigned cell.
 - 4. Capital punishment inmates will be issued designated clothing.
- C. The escort, restraint, and dress requirements specific to capital punishment inmates described in DOC policy 1.3.A.7 [Inmate Transport & Escort](#) (See [Attachment 1](#)), will be maintained whenever a capital punishment inmate is moved from his/her cell.
 - 1. Transportation of a capital punishment inmate throughout the facility (e.g. to Health Services, to meet with an attorney, etc.) will be scheduled when there is the least amount of potential for the capital punishment inmate to have contact with general population inmates.
 - 2. Whenever a capital punishment inmate is escorted outside of the capital punishment housing boundary, existing crash gates will be secured and all other doors leading to areas occupied

by inmates must be locked/secured. Doors to areas where only DOC staff are present do not have to be locked/secured.

3. The senior security officer will be notified prior to a capital punishment inmate being transported outside of the secure perimeter. The senior security office will in turn notify the Warden or his/her designee and the Secretary of Corrections and provide all necessary information regarding the transport (See DOC policy 1.3.A.7 *Inmate Transport & Escort*).
- D. Once a capital punishment inmate is moved to the execution housing area, additional restrictions may be imposed by the Warden (See DOC policy 1.3.D.3 *Execution of an Inmate*).

4. Capital Punishment Programs and Services:

- A. The procedures in this section must be consistent with SDCL [23A-27A-31.1](#), this policy, and the security and disciplined operation of the respective institution.
- B. Capital punishment inmates will normally receive forty-five (45) minutes out of cell recreation each weekday.
 1. Telephones will be available for use during the recreation period.
 2. Capital punishment inmates may submit a special phone request through their unit coordinator, if they cannot conduct or complete their telephone call during the recreation period.
- C. Incoming mail will be opened pursuant to DOC policy and will be delivered to the inmate's cell by staff (See DOC policy 1.5.D.3 *Offender Correspondence*). Funds received in the mail will be credited to the inmates' account (See DOC policy 1.1.B.2 *Inmate Accounts and Financial Responsibility*).
- D. Capital punishment inmates will be allowed two (2) Class II visits per week from family members on weekdays (excluding holidays) during designated visiting hours (See DOC policy 1.5.D.1 *Inmate Visiting*).
 1. Visitors must call the control room in advance to schedule a Class II visit.
 2. Inmates may have one (1) weekend Class II visit per month, to be scheduled in advance through the unit manager. The weekend visit will count against one of the two (2) weekday visits.
 3. Capital punishment inmates must remain handcuffed during Class II visits but the waist belt will be removed based on staff discretion.
 4. Special visits must be approved in advance through a senior administrator (normally the Warden, Deputy Warden or an Associate Warden).
- E. Capital punishment inmates may visit their attorney within their assigned housing unit, at time designated by staff. Typically this is during regular staffing hours when unit staff is available.
 1. The senior security officer or unit manager may approve attorney visits during other times.
 2. During the attorney visit, the inmate will be in full restraints.
 3. It is preferable that advance notice be given by the attorney so that security can be arranged.

- F. Capital punishment inmates will be afforded commissary privileges (See DOC policy 1.2.E.1 [Inmate Commissary](#)). Commissary items may be limited to items that do not compromise the security or safety of the housing unit.
- G. Capital punishment inmates may access books from the library by making a request to the library administrator.
 - 1. Unit staff will determine how many books the inmates may request; the length of time the inmate may retain the books, and if a commissary slip must accompany the request.
 - 2. Except for legal reference books, inmates may only request a general category of book. Inmates may request a specific legal reference book(s) (See DOC policy 1.3.E.4 [Inmate Legal Assistance](#)).
 - 3. Library privileges may be temporarily suspended if books are not returned or are damaged.
- H. Inmates requesting legal assistance may send a legal kite to the contract attorney (See DOC policy 1.3.E.4 [Inmate Legal Assistance](#)).
- I. Inmates requesting attention for a specific health need may send a request to Health Services (See DOH policy P-A-01 [Access To Care](#)).
- J. Specific religious needs may be addressed to the cultural activities coordinator.
- K. Inmates requesting to see unit staff may submit a kite to the unit coordinator.
- L. Requests for educational materials will be made through education staff. Ordinarily, educational materials will be limited to the resources available at the facility.

5. Capital Punishment Housing Property:

- A. Personal property will conform to limitations set forth in DOC policy and/or facility OMs.
- B. The Warden/Deputy Warden may further limit the personal property of capital punishment inmates for security, safety and/or sanitation reasons.
- C. Limited hobby/craft items will be allowed in capital punishment housing.

V Related Directives:

SDCL [23A-27A-31.1](#) and [23A-27A-33](#)

DOC policy 1.1.A.4 – [Relationship With News Media, Public and Other Agencies](#)

DOC policy 1.1.B.2 – [Inmate Accounts and Financial Responsibility](#)

DOC policy 1.2.E.1 – [Inmate Commissary](#)

DOC policy 1.3.A.1 – [Unit Plans](#)

DOC policy 1.3.A.7 – [Inmate Transport & Escort](#)

DOC policy 1.3.D.3 – [Execution of an Inmate](#)

DOC policy 1.3.E.4 – [Inmate Legal Assistance](#)

DOC policy 1.4.B.2 – [Male Inmate Classification](#)

DOC policy 1.4.B.14 – [Female Inmate Classification](#)

DOC policy 1.5.D.1 – [Inmate Visiting](#)

DOC policy 1.5.D.3 – [Offender Correspondence](#)

DOC policy 1.5.D.4 – [Inmate Access to Telephones](#)
DOH policy P-A-01 – [Access To Care](#)

VI Revision Log:

July 2003: **Added** references to the DOC *Inmate Living Guide* and policy 1.4.B.2. **Reorganized** the section on Day-To-Day Guidelines. **Deleted** the reference to indoctrination services and programs.

August 2004: **Revised** the policy statement. **Combined** SDSP and SDWP OMs with this policy. **Added** references to policies 1.1.A.4, 1.1.B.2, 1.2.E.1, 1.3.A.1, 1.5.D.1 and DOH policy PA 01.

July 2005: **Added** reference to DOC policies 1.5.D.3 and 1.5.D.4. **Changed** "counselor" to "unit coordinator". **Clarified** that only male inmates can have a razor in their cell for shaving.

July 2006: **Revised** the definitions of Senior Security Officer and Security Perimeter. **Added** reference to DOC policy 1.3.D.3

August 2007: **Deleted** information regarding showers in the section on Capital Punishment Housing Sanitation.

July 2008: **Revised** formatting of policy in accordance with DOC policy 1.1.A.2. **Replaced** "23A-27A-16" with "23A-27A-31.1 throughout policy. **Replaced** "facility" with "penitentiary" staff, **added** "Department of Corrections staff", **deleted** "inmate's physician", **replaced** "a priest/minister or other recognized clergy if the inmate desires one" with "members of the clergy if requested by the inmate" and **added** language regarding clergy and inmates family members are subject to approval by the Warden before access to the inmate in ss (A of Access to Capital Punishment Housing Inmates) in accordance with SDCL 23A-27A-31.1. **Added** "DOC policy" when referencing policies in Related Directives section.

July 2009: **Revised** title of DOC policy 1.5.D.3 throughout policy to read Offender Correspondence. **Added** hyperlinks throughout policy.

July 2010: **Revised** formatting of Section 1. **Revised** title of DOC policy 1.4.B.2 and **added** DOC policy 1.4.B.14 to policy. **Added** reference to JPA in ss (A of Establishment of Capital Punishment Housing Unit).

July 2011: **Reviewed with no changes.**

February 2013: **Deleted** "Associate Warden" and **Replaced** with "Deputy Warden" in definition of "Senior Security officer" **Added** "biological/legally adopted" to Section 2 A. 1. **Added** "by the attorney" in Section 4 E. 3. **Deleted** "The only" and **Replaced** with "Limited" and **Deleted** "allowed to capital punishment housing inmates will be beadwork" and **Replaced** with "Will be allowed in capital punishment housing" in Section 5 C.

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

July 2014: **Deleted** "allowed to wear the same clothes as general population inmates" and **Replaced** with "will be issued designated clothing" in Section 3 B. 4.

July 2015: **Deleted** "Capital punishment inmates are not allowed outside recreation" in Section 4 B. **Added** "The senior security office will in turn notify the Warden or his/her designee and the Secretary of Corrections and provide all necessary information regarding the transport" to Section C. 3. c.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

09/03/2015

Date