	DEPARTMENT OF PUBLIC SAFETY	EFFECTIVE DATE: February 1, 2016	POLICY NO.: COR.15.05
	CORRECTIONS ADMINISTRATION POLICY AND PROCEDURES	SUPERSEDES (Policy No. & Date): COR.15.05 & 06/02/93	
	SUBJECT: INMATE ACCESS TO PUBLICATIONS		Page 1 of 6

1.0 PURPOSE

The purpose of this policy is to provide guidelines to correctional facilities for governing inmate access to publications.

2.0 REFERENCES AND FORMS

.1 References

- a. 18 U.S.C. Chapter 71 §§ 1460-1470, Obscenity.
- b. *Bell v. Wolfish*, 441 U.S. 520, 550-51 (1979).
- c. Hawaii Revised Statutes (HRS), §§ 712-1210 to 712-1219.5, Offenses Related to Obscenity
- d. *Mauro v. Arpaio*, 188 F.3d 1054 (9TH Cir. 1999).
- e. *Thornburgh v. Abbott*, 490 U.S. 401 (1989).
- f. *Turner v. Safley*, 482 U.S. 78, 89-90 (1987).

.2 Forms

- a. PSD 8324, Prohibited Publication form (attached).

3.0 DEFINITIONS

- .1 Publication – Books, periodicals, newspapers, pamphlets, brochures, flyers, magazines, newsletters or similar materials (to include articles printed from the internet or clipped from magazines/newspapers) published by an individual, organization, or corporation that is distributed or made available through any means.
- .2 Sexually Explicit Material – Sexual references; full or partial nudity, including depictions of uncovered female breasts, aroused or unaroused male/female genitalia, and unrealistic or overly detailed genitalia; bestiality; sexual acts to or with minors; sexual acts including, but not limited to, penetration/intercourse, and/or oral sex with or without any other object including overt sexual toys and/or sexual aids; or sexual behavior that has a violent context.

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Sexually explicit material does not include material of news, educational or of an informational nature (i.e. publications covering activities of gay rights organizations or gay religious groups).

Literary publications shall not be excluded solely because of homosexual themes or references, if they are not sexually explicit.

- .3 STG – Security Threat Group

4.0 POLICY

Restrictions shall be placed on inmate access to certain publications based upon the primary objectives of a correctional facility, which are to preserve internal order and discipline, maintain institutional security and the rehabilitation of inmates.

5.0 PROCEDURES TO RECEIVE PUBLICATIONS

Facility Wardens shall designate staff to censor and approve all incoming publications for inmates in accordance with the provisions of this policy.

- .1 An inmate may receive publications only from a publisher, a book club or a bookstore.
- .2 Inmate requests for subscriptions or individual publications shall be submitted to the Case Manager/Counselor who will ascertain whether the publication is likely to be approved. Cash on delivery orders shall not be accepted; the inmate, their family or friends must pre-pay for all orders.
- .3 Facility Wardens may set limits on the number of volume of publications an inmate may receive or retain in his/her quarters (for fire, sanitation, or housekeeping reasons).

6.0 PROHIBITED PUBLICATIONS

- .1 Publications which may be prohibited by the Warden/designee include but are not limited to publications that contain pictures, depictions, illustrations, or information that would threaten, undermine, or degrade personal safety of staff, volunteers, inmates, or others, such as:
 - a. Depicting or describing procedures for the construction or use of weapons, ammunition, bombs or incendiary devices;

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- b. Depicting, encouraging, or describing methods of escape from correctional facilities (or contains blue prints, drawings or similar descriptions of correctional facilities) including the functionality of locks and/or security devices (i.e. cameras, alarms) or how to bypass or defeat the security functions of these devices;
- c. Depicting or describing procedures for the brewing of alcoholic beverages or the making or manufacture of drugs or poisons or extolling the virtues of drug use;
- d. Writings in code;
- e. Depicting patterns for tattoos and/or skin modification equipment which would provide, at a minimum, visual aids for inmates wishing to reproduce this type of body ornamentation and/or equipment;
- f. Depicting, describing or encouraging activities which may lead to the use of physical violence or group disruption;
- g. Depicting the use of hands, feet, or head as weapons, fighting weapons and techniques, self-defense and martial arts;
- h. Encouraging or instructing in the commission of criminal activity;
- i. Containing sexually explicit material;
- j. Violating federal or Hawaii obscenity laws or encouraging criminal activity;
- k. Containing any material that would have an adverse impact on the rehabilitation goals of the inmates (i.e. sex offender treatment) or on the management and security of the institution;
- l. Creating a hostile work environment for staff or for other inmates;
- m. Containing racism and/or religious oppression and the superiority of one race/religion/political group over another, and/or the degradation of one race/religion/political group by another;
- n. Containing any material that advocates the overthrow of the Government of the United States of America or the State of Hawaii.

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- o. Containing STG or gang-related activities and plans to include terrorism; or
 - p. Threatening or undermine safety, security, order, discipline, control, or other legitimate penological interests.
- .2 Facility Wardens may not establish an excluded list of publications. Individual publications shall be reviewed prior to rejection. Publications must be evaluated using content-neutral criteria; rejecting such publications cannot be arbitrary or irrational or based on the biases, personal beliefs or personal preferences of the Warden/designee.
- .3 If any part of a publication is determined to violate content-neutral mail regulations, the publication may be rejected in its entirety. The U.S. Supreme Court has ruled that if a publication contains portions which should be rejected, the entire publication should be refused rather than simply tearing out the offending material.

7.0 PROCEDURES TO REJECT PUBLICATIONS

- .1 When a publication for an inmate is rejected or denied, the publisher and the inmate to whom the publication was addressed shall both be notified in writing of the following:
- a. Notification of rejection or denial;
 - b. Reason for rejection or denial; and
 - c. Process for both the inmate and the publisher to appeal the rejection or denial to the Warden/designee.
- .2 Facility mailroom staff will document receipt of prohibited publication on PSD Form # 8324 "Prohibited Publication".
- .3 A copy of PSD Form # 8324 "Prohibited Publication" must be sent to the publisher. The publisher has up to seven (7) calendar days from receipt to appeal. The Warden will provide a response to the appeal from the Publisher or third parties within thirty (30) days.
- .4 Inmate appeals shall be made through the inmate grievance system within fifteen (15) calendar days of a rejected publication.

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- .5 The publications must be retained at the facility's mailroom for the duration of the appeals process as evidence; the inmate shall pay for the postage of any rejected publications they wish either returned to the publisher for refund or sent to a private party.
- .6 In the event the publication(s) is deemed appropriate based on the outcome of an investigation and/or grievance, the publication will be forwarded to the inmate.

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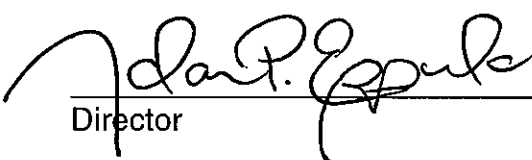
8.0 SCOPE

This policy shall apply to all correctional facilities.

APPROVAL RECOMMENDED:

 12.18.15
Deputy Director for Corrections Date

APPROVED:

 12/18/15
Director Date

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PROHIBITED PUBLICATION

Facility Name			
Inmate Name		SID	

Publications contain pictures, depictions, illustrations, or information (as outlined below) that would threaten, undermine, or degrade personal safety of staff, volunteers, inmates, or others. The following publication is prohibited:

Publication Name	
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Contents of Publication that Support Denial (Check All That Apply):

- | | |
|---|--|
| <input type="checkbox"/> Depicting or describing procedures for the construction or use of weapons, ammunition, bombs or incendiary devices

<input type="checkbox"/> Depicting or describing procedures for the brewing of alcoholic beverages or the making or manufacture of drugs, poisons or extolling the virtues of drug use

<input type="checkbox"/> Containing STG or gang-related activities and plans to include terrorism

<input type="checkbox"/> Depicting patterns for tattoos and/or skin modification equipment which would provide, at a minimum, visual aids for inmates wishing to reproduce this type of body ornamentation and/or equipment

<input type="checkbox"/> Depicting the use of hands, feet, or head as weapons, fighting weapons and techniques, self-defense and martial arts

<input type="checkbox"/> Containing racism and/or religious oppression and the superiority of one race/religion/political group over another, and/or the degradation of one race/religion/political group by another

<input type="checkbox"/> Containing sexually explicit material or containing any material that would have an adverse impact on the rehabilitation goals of the inmates (i.e. SOTP) or on the management and security of the institution or creating a hostile work environment for staff or for other inmates | <input type="checkbox"/> Depicting, encouraging, or describing methods of escape from correctional facilities (or contains blue prints, drawings or similar descriptions of correctional facilities) including the functionality of locks and/or security devices (i.e. cameras, alarms) or how to bypass or defeat the security functions of these devices

<input type="checkbox"/> Writings in code

<input type="checkbox"/> Depicting, describing or encouraging activities which may lead to the use of physical violence or group disruption

<input type="checkbox"/> Encouraging or instructing in the commission of criminal activity

<input type="checkbox"/> Containing any material that advocates the overthrow of the Government of the United State of America or the State of Hawaii

<input type="checkbox"/> Violating federal or Hawaii obscenity laws or encouraging criminal activity

<input type="checkbox"/> Threatening or undermine safety, security, order, discipline or control or other legitimate penological interests |
|---|--|

Form Completed By:

Printed Name			
Signature		DATE	

Inmate appeals should be made through the facility grievance process within fifteen (15) calendar days of rejected publication. The publisher has up to seven (7) calendar days from receipt to file appeal.

PUBLICATION APPEAL

State Reason for Appeal (Attach additional pages if necessary):

Printed Name			
Signature		DATE	

This section to be completed by facility staff:

Warden /Designee Response (Attach additional pages if necessary):

Disposition of Appeal: **Approved** **Denied**

Signature			
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