

 <p style="text-align: center;">STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES</p> <p style="text-align: center;">DIRECTIVE</p>	TITLE		NO. 4572
	Media Review		DATE 08/29/1996
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REFERENCES (Include but are not limited to)	APPROVING AUTHORITY /s/ Dr. Raymond Broaddus		

- I. POLICY:** It is Departmental policy to encourage inmates to read publications from varied sources if such material does not encourage them to engage in behavior that might be disruptive to orderly facility operations. Accordingly, inmates shall be allowed to subscribe to and possess a wide range of printed matter such as books, magazines and newspapers, subject to the provisions of this directive, because these items may promote constructive individual development.

In the event that the Superintendent, or his designee, believes that printed material addressed to an inmate represents a possible threat to orderly facility operations, that material will be referred to the Facility Media Review Committee (FMRC) for its assessment and disposition.

Exception: At Auburn Correctional Facility and Clinton Correctional Facility the provisions of the Dumont stipulation takes precedence whenever they differ from the provisions of this directive.

- II. STANDARDS:** The Department adopts the following guidelines by which literature for inmates will be evaluated.

- A. In general, the materials must be acceptable for regular mailing according to United States postal law and regulations.
- B. Publications which contain child pornography or which promote a sexual performance of a child in violation of Penal Law Article 263 are unacceptable. Publications which, taken as a whole, by the average person applying contemporary community standards, appeal to prurient interest, and which depict or describe in a patently offensive way sexual bestiality, sadism, masochism, necrophilia or incest, and which taken as a whole, lack serious literary, artistic, political or scientific value are obscene and are unacceptable.
- C. The publication should not incite violence based on race, religion, sex, sexual orientation, creed, or nationality. "Incite violence", for purposes of this guideline, means to advocate, expressly or by clear implication, acts of violence.
- D. Any publication which advocates and presents a clear and immediate risk of lawlessness, violence, anarchy, or rebellion against governmental authority is unacceptable.
- E. The publication should not incite disobedience towards law enforcement officers or prison personnel. "Incite disobedience", for purposes of this guideline, means to advocate, expressly or by clear implication, acts of disobedience.
- F. The publication should not give instruction in the use or manufacture of firearms, explosives, and other weapons, or depict or describe their manufacture. Mere depictions of the use of hunting and/or military weapons which reasonably would not affect the safety and/or security of the facility are not prohibited.
- G. The publication should not provide instruction by word(s) or picture(s) regarding martial arts skills. Martial arts include, but are not limited to, aikido, jujitsu, judo, karate, kung fu, and tai chi chu'an. Publications which discuss martial arts without providing instruction are acceptable.
- H. The publication should not:
 1. Contain information which appears to be written in code; or
 2. Depict or describe methods of lock picking; or

3. Depict or describe methods of escape from correctional facilities; or
4. Depict or describe procedures for the brewing of alcoholic beverages or the manufacture of drugs or use of illegal drugs; or
5. Depict or describe methods or procedures for smuggling prison contraband; or
6. Depict or describe techniques or methods for rioting and/or information instructive in hostage or riot negotiation techniques.

The Department reserves the right to deny the inmate publications which may be held non-inciteful or non-advocative, as the case may be, during the Media Review Process, but which actually result in violence or disobedience after entrance into a facility, as is clearly set forth in guidelines 3 and 6 above. Such items shall be referred to the Facility Media Review Committee (FMRC), and if appealed, referred to the Central Office Media Review Committee (COMRC), for decision.

Publications which discuss different political philosophies and those dealing with criticism of Governmental and Departmental authority are acceptable as reading material provided they do not violate the above guidelines. For Example, publications such as Fortune News, The Militant, The Torch/La Antorcha, Workers World, and Revolutionary Worker shall generally be approved unless matter in a specific issue is found to violate the above guidelines.

The purposes of the foregoing guidelines are to facilitate access by inmates to a wide range of literature. Superintendents and staff of correctional facilities are urged to use whatever means they have available to provide facility libraries with literature which presents differing points of view relevant to the issues of the day.

III. PROCEDURE: In view of the above considerations, the Department specifies the following procedures for the evaluation and approval or disapproval of literature for inmates.

- A. Establishment of Facility Media Review Committee (FMRC): Each institution will establish a media review committee. It is suggested that this committee consist of representatives from Program Services (for example, representatives from the Guidance Unit, Mental Hygiene staff, Chaplains' Office, Education staff, and Library staff) and representatives from Security staff.

The superintendent will inform the Deputy Commissioner for Program Services of the membership of the FMRC. The superintendent will also inform the Deputy Commissioner for Program Services of any changes in said membership.

- B. Referral of Publications to FMRC, Notice to Inmate: Publications properly received at the facility for an inmate in mail or packages shall be delivered to the inmate in the ordinary course of mail or package delivery unless referred to the FMRC upon a reasonable good faith belief that the publication violates one or more of the media review guidelines listed in Section II above of this directive.

When there is a good faith belief that a publication already belonging to or in possession of an inmate violates one or more of the media review guidelines, said publication shall be confiscated and referred to the FMRC for review and decision.

Publications referred to the FMRC shall be delivered promptly to FMRC. Notice to the inmate (Exhibit A) advising of such referral must be placed in the institutional mail at the same time as the publication is referred.

C. Facility Media Review Committee Operations

1. The FMRC shall meet at least once weekly unless there are no publications for review.
2. A decision regarding a publication shall be rendered by the FMRC within ten working days of the publication's receipt at the facility. In the event that an FMRC does not respond to the inmate within 10 working days, said inmate can appeal such lack of decision, in writing, to the COMRC.

3. Should the FMRC approve a publication, said publication shall be forwarded promptly to the inmate.
4. Should the FMRC disapprove a publication, such decision shall be in the form provided in Exhibit B, and include a brief statement of reasons explaining why the publication is deemed to violate one or more of the media review guidelines and identifying by page number, article title, and location on the page, the contents objected to. (The FMRC shall not state that a publication is unacceptable in its entirety). An example concerning such brief statement of reasons is set forth below:

The following is an acceptable statement of reasons:

“This publication incites inmates to commit assaults on correctional officers in the Article 'Prison Rebellion Now' on page 10, near the bottom”.

The following is not an acceptable statement of reasons:

“This publication incites disobedience towards law enforcement personnel on page 10”.

5. Notice to Inmate: When the FMRC disapproves a publication, a copy of Exhibit B (see C-4 above) shall be sent promptly to the inmate.
- D. Inmate Options Regarding Appeal or Other Disposition When Notified That a Publication Has Been Disapproved by Facility Media Review Committee: When the FMRC disapproves a publication, the inmate shall be permitted to select one of the following methods of disposition: (see Exhibit B)
1. Appeal to the Central Office Media Review Committee (COMRC). The inmate shall not be entitled to appeal unless he chooses this option within 30 days of the FMRC decision.
 2. Receive the publication with the objectionable matter removed or blotted out. This option shall be available only if the objectionable portions of the publication constitute eight or fewer individual pages or if they constitute a single chapter, article or section of any length. This option need not be made available if the publication is in a form other than a book, magazine, or newspaper, and if removing or blotting out portions would present physical difficulties.
 3. Have the publication sent, at the inmate's expense, to a person of the inmate's choice, not another inmate or a Department of Correctional Services official, either immediately or after 30 days.
 4. Have the publication destroyed after 30 days. If the inmate does not make a choice among these options within 30 days of the FMRC decision, the facility may dispose of the publication in any manner.
- E. Appeals to COMRC: When an inmate elects to appeal the FMRC's disapproval of a publication, he shall check the appropriate box on the disposition notice (Exhibit B). He may also, at his option, submit an appeal letter. The FMRC shall forward the appeal notice and letter, if any, with the publication in question to the COMRC. Appeals shall be forwarded at facility expense by first class mail or equally prompt means.
- F. Establishment of COMRC: The COMRC will consist of representatives of Program Services, Security Services, and Administrative Services. The Committee will be chaired by the Deputy Commissioner for Program Services or his designee.
- G. COMRC Operations
1. The COMRC shall meet at least once weekly unless there are no publications awaiting review.
 2. All publications appealed to the COMRC will be reviewed and a decision rendered thereon within 3 weeks of the date the appeal was received by the COMRC.
 3. The COMRC in deciding whether to approve or disapprove a publication shall consider any statements submitted in a timely manner.

4. The COMRC decision shall be in the form provided in Exhibit C. The COMRC will notify the Superintendent and he, in turn, will notify the inmate of the decision.
5. When the COMRC disapproves a publication, the inmate shall have the following options:
 - a. Receive the publication with the objectionable portions blotted or cut out. This option is available only if the objectionable portion is eight pages or less, or a single chapter, article, or section of any length.
 - b. Have the publication sent, at the inmate's expense, to a person of the inmate's choice, not another inmate or a Department of Correctional Services official, either immediately or after 30 days.
 - c. Have the publication destroyed.
 - d. Have the publication retained at the facility for 30 days while the inmate makes arrangements for its disposition, including being picked up by a visitor during the period.

If a choice is not made within 30 days, disposal of the material will be at the discretion of the Superintendent.
- H. List of Publications Approved by the COMRC: On a weekly basis, the COMRC shall prepare a list of all the publications it has approved in the past week, and shall mail a copy of that list to the chairman of each FMRC.
- I. Action by the FMRC on Held Items Approved by the COMRC: The chairman of each FMRC shall determine whether the name of any publication previously disapproved by the FMRC appears on the list, and whether said publication is being held pursuant to inmate choice. Should any such publication be in the possession of the FMRC, it shall immediately be forwarded to the inmate.
- J. Subscriptions: Inmates will not be prohibited from subscribing to newspapers, magazines, and periodicals, but shall be informed that individual issues may be withheld if material contained therein is confirmed to be in violation of the guidelines set forth in this Directive. If, after being advised of these conditions, inmates wish to subscribe to newspapers, magazines, and periodicals, they will be allowed to do so.
- K. Sources of Media
 1. Books, magazines and periodicals: Books, magazines and periodicals received from other than the publisher may be delayed through the Package Room up to six days while being subject to Media Review Guidelines. All material is subject to Media Review guidelines.
 2. Newspapers: Newspapers may only be received from the publisher or an approved distributor, subject to Media Review guidelines.
 3. Printed or Photocopied Materials.
 - a. A limit of 5 pages of printed or photocopied materials (an individual newspaper clipping will be considered one page) may be received from other than the publisher within a piece of regular correspondence.
 - b. The pages or clippings must not be taped, glued, or pasted together or to other papers.
 - c. Correspondence which includes printed or photocopied materials may be delayed through the Correspondence Unit up to six days while subject to Media Review guidelines.
 4. Audio Tapes: Audio tapes (cassettes) commercially made and sealed in cellophane or similar material, may only be received from a distributor, retailer or manufacturer, and are subject to Media Review guidelines.

Religious tapes may be received from a bonafide religious organization. These tapes must be in clear packaging and be reviewed by the chaplain's office or Media Review Committee.

- L. Re-Review: A re-review of a publication which has been disapproved by a FMRC will be conducted by the FMRC upon the request of an inmate no less than eighteen months subsequent to the previous disapproval.

Nothing contained herein shall prevent review of such publications by the FMRC or COMRC prior to eighteen months after disapproval, where conditions warrant.

Exhibit "A"

REFERRAL NOTICE

_____ CORRECTIONAL FACILITY

Date: _____

Inmate Name: _____

Identification No.: _____

Cell Location: _____

The following publication _____
(Title)

(Author, Date or Volume and Number)

has arrived at the facility addressed to you and has been held for review by the Facility Media Review Committee. You are invited to submit a written statement in support of the admission of the publication. Address your comments to:

Chairperson of the Facility Media Review Committee, promptly, since the committee must reach a decision usually within ten working days of the date of this notice.

EXHIBIT "B"

DISPOSITION NOTICE

_____ CORRECTIONAL FACILITY

MEDIA REVIEW COMMITTEE

DATE: _____

INMATE NAME	NUMBER	CELL LOCATION
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The publication _____	(Title)	
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_____ (Author, Date of Volume & Number)

has been reviewed by the Facility Media Review Committee and the following portions:

_____ (Pages, Articles, or Location of Offensive Portions)

have been found unacceptable for the following reasons:

_____ (Guideline Number and Reason)

You now have the following options (please check one):

- Appeal to the Central Office Media Review Committee by checking this box and sending this form and (if you desire) a letter in support of your appeal to the Facility Medial Review Committee (FMRC).
- Receive the publication with the objectionable portions blotted or cut out. This option is available only if the objectionable portion is eight pages or less, or is a single chapter, article, or section of any length.
- Have the publication sent to a person of your choice, not another inmate or a Department of Correctional Services official, at your expense after 30 days. If the FMRC receives notice that this publication has been approved before it is sent out, you will receive it.
- Have the publication sent to a person of your choice, not another inmate or a Department of Correctional Services official, at your expense immediately.

Send to: _____

- Have the publication destroyed after 30 days. If the FMRC receives notice that the publication has been approved before it is destroyed, you will receive it.

If you do not make a choice within 30 days, disposal of your material will be at the discretion of the Superintendent or his designee.

Inmate Signature

Date

EXHIBIT "C"

DEPARTMENT OF CORRECTIONAL SERVICES
CENTRAL OFFICE MEDIA REVIEW COMMITTEE
Building 2, Harriman State Campus
1220 Washington Avenue
Albany, NY 12226 - 2050

Date: _____

Inmate Name	Number	Facility
The decision of the _____ Facility Media Review Committee denying you the right to receive the publication		

(Title)	(Author, Date or Volume and Number)
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has been affirmed () reversed () by the Central Office Media Review Committee for the following reason:

If the decision was reversed, you should receive the publication with this form. If the decision was upheld, you now have the following options:

- () 1. Receive the publication with the objectionable portions blotted or cut out. This option is available only if the objectionable portion is eight pages or less, or is a single chapter, article, or section of any length.
- () 2. Have the publication sent to a person of your choice, not to another inmate or a Department of Correctional Services official, at your expense. Send to:

Name: _____

Address: _____

- () 3. Have the publication destroyed.
- () 4. Have the publication retained at the facility for 30 days while you make arrangements for its disposition.

If you do not make this choice within 30 days, disposal of the material will be at the discretion of the Superintendent or his designee.

Send this form to your Facility Media Review Committee, since all censored publications are returned to this committee.