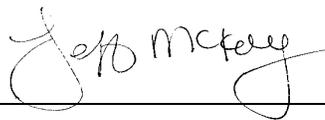


 <b>Corrections and Community Supervision</b>  <b>DIRECTIVE</b>	TITLE <b>Media Review</b>		NO. 4572
			DATE 01/27/2022
SUPERSEDES DIR #4572 Dtd. 04/07/20	DISTRIBUTION A B	PAGES PAGE 1 OF 8	DATE LAST REVISED
REFERENCES (Include but are not limited to) Penal Law Article 263; 7NYCRR Section V and Part 712; ACA Expected Practices 5-ACI-7D-02, 5-ACI-7D-04 1-ABC-5D-02, 1-ABC-5D-04; Directives #4911, #4913	APPROVING AUTHORITY 		

- I. **POLICY:** It is Departmental policy to encourage incarcerated individuals 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, incarcerated individuals shall be allowed to subscribe to and possess a wide range of printed material such as books, magazines, and newspapers, subject to the provisions of this directive, as these items may promote constructive individual development.

In the event that the Superintendent, or designee, believes that printed material addressed to an incarcerated individual, or published material available on incarcerated individual tablets, 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 take precedence whenever they differ from the provisions of this directive.

- II. **STANDARDS:** The Department adopts the following guidelines by which literature for incarcerated individuals 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 in which models of any age are depicted or portrayed as underage persons in sexually provocative poses or engaged in sexual activity are unacceptable. Publications depicting nude children in a non-pornographic context but, which could promote or encourage prurient interest in the sexual performance of children, 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.
  2. Depict or describe methods of lock picking.
  3. Depict or describe methods of escape from correctional facilities.
  4. Contain detailed maps or topographical maps, which could aid an incarcerated individual in an escape. No maps of New York State shall be allowed without specific approval of the Superintendent.  
  
NOTE: Maps that are designated for educational purposes and do not violate the above criteria, including the World Atlas, Geographical Map of the United States, etc., are acceptable.
  5. Depict or describe methods of survival techniques which could aid an incarcerated individual in an escape from a correctional facility.
  6. Depict or describe procedures for the brewing of alcoholic beverages, the manufacture of drugs, or use of illegal drugs.
  7. Depict or describe methods or procedures for smuggling prison contraband.
  8. Depict or describe techniques or methods for rioting and/or information instructive in hostage or riot negotiation techniques.
  9. Depict or describe hand signs, insignias, graffiti, or any other identifiers depicting or pertaining to a gang, or text that describes or depicts gang or other unauthorized group activity in such a way that it would promote or instruct in the formation of such groups inside a correctional facility.

NOTE: Gang or other unauthorized group material includes written material that if observed by a fellow incarcerated individual in the incarcerated individual's possession could result in an inference being drawn about the incarcerated individual's gang affiliation and thereby target the incarcerated individual for assault or result in other obstructive conduct. It also includes certain written material that could facilitate organizational activity within an institution by an organization that has not been approved by the Deputy Commissioner for Program Services to operate within the institution. Material that could facilitate organizational activity includes but is not limited to, a membership roster, organizational chart, constitution and bylaws. All such material can be disallowed although otherwise determined not to incite or advocate for violence or disobedience.

The Department reserves the right to deny the incarcerated individual 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 II-C and II-E above. Such items shall be referred to the 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 incarcerated individuals 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.

I. Sources of Media

1. Newspapers: Newspapers may only be received from the publisher or an approved distributor, subject to Media Review guidelines.
2. Printed or Photocopied Materials
  - a. No more than five newspaper clippings or five pages of printed or photocopied materials, including materials printed off of the internet, 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.
3. 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 bona fide religious organization. These tapes must be in clear packaging and be reviewed by the Chaplain's Office or Media Review Committee.

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

- A. Publications: Publications received at the facility, which are in a language other than English, shall be referred to the Central Office Director of Education for translation services, as directed by the Language Access policy and procedure, prior to referral to the FMRC.
- B. Establishment of Facility Media Review Committee (FMRC): Each correctional facility will establish a FMRC and designate a FMRC Chairperson, who will be responsible for the oversight of the day-to-day operations of the FMRC.

It is suggested that this committee consist of representatives from Program Services (for example, representatives from Guidance staff, DOCCS Mental Health staff, Facility Chaplains, Education staff, Recreation staff, and Library staff) and representatives from Security staff. All FMRC activities will be reported monthly to the COMRC utilizing the "Facility Media Review Monthly Report."

The Superintendent will inform the Deputy Commissioner for Programs, or designee, of the membership of the FMRC. The Superintendent will also inform the Deputy Commissioner for Programs, or designee, of any changes in said membership.

- C. Referral of Publications to FMRC, Notice to Incarcerated Individual: Publications properly received at the facility for an incarcerated individual in mail or packages shall be delivered to the incarcerated individual 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 of this directive.

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

Publications referred to the FMRC shall be delivered promptly to the FMRC. The incarcerated individual will be notified with [Form #4572A](#), "Incarcerated Individual Referral Notice," which must be placed in the institutional mail at the same time as the publication is referred.

- D. 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 incarcerated individual within ten working days, the said incarcerated individual can appeal such lack of decision, in writing, to the COMRC.
3. Should the FMRC approve a publication, the said publication shall be forwarded promptly to the incarcerated individual.
4. Should the FMRC disapprove a publication, such decision shall be set forth in [Form #4572B](#), "Incarcerated Individual Disposition Notice." It shall include a brief statement of reasons explaining why the publication is deemed to violate one or more of the Media Review guidelines, and identify 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 incarcerated individuals 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 Incarcerated Individual: When the FMRC disapproves a publication, or any portion thereof, a copy of [Form #4572B](#) (see subsection III-D-4) shall be sent promptly to the incarcerated individual.
  6. Notice to Sender: When the FMRC disapproves a publication, or any portion thereof, a copy of the “Incarcerated Individual Disposition Notice,” together with a copy of [Form #4572C](#), “Sender Disapproval Notice,” notifying the sender of the right to appeal, shall be sent to the sender at the same time that the “Incarcerated Individual Disposition Notice” is sent to the incarcerated individual. No notice to the sender is required if the FMRC previously provided notice to the same sender of an identical FMRC decision regarding the same publication, notwithstanding that the intended incarcerated individual recipient is not the same. For purposes of this directive, the term “sender” shall refer to the person or entity that sent the incarcerated individual the publication, if known, or if that person or entity is unknown, then the publisher, if known.
- E. Incarcerated Individual 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 incarcerated individual shall be permitted to select one of the following options (see also [Form #4572B](#)):
1. Appeal to the COMRC. The incarcerated individual shall not be entitled to appeal unless he or she 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. The decision to blot or remove objectionable material is made at the discretion of the facility.
  3. After 30 days, the publication may be sent, at the incarcerated individual’s expense, to a person of the incarcerated individual’s choice (It cannot be sent to another incarcerated individual or a Department of Corrections and Community Supervision official).  

NOTE: Authorized Advance: In all instances where an incarcerated individual elects to send out a denied publication at the incarcerated individual’s expense, the procedures in Directive #4911, “Packages & Articles Sent or Brought to Facilities,” and Directive #4913, “Incarcerated Individual Property,” are to be followed. The facility will encumber the funds from the incarcerated individual’s account to permit the incarcerated individual to send the denied material out of the facility, within the time frame required by the Media Review guidelines.
  4. Have the publication destroyed after 30 days. If the incarcerated individual 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.

NOTE: If the incarcerated individual chooses not to appeal, the publication with the objectionable portions cut out shall be forwarded to the incarcerated individual immediately. The cut out portions will be attached to the signed copy of [Form #4572B](#) that has been returned from the incarcerated individual, and secured by the FMRC for 30 days, while waiting for the sender's appeal. This option is available only if the objectionable portion is eight pages or less, or a single chapter, article, or section of any length.

If the sender then submits an appeal, the FMRC shall submit the cut out portions of the publication, along with the sender's appeal, to the COMRC for review.

If neither the incarcerated individual nor the sender submits a timely appeal, and the incarcerated individual has not made a choice among disposal options, disposal of the material(s) will be at the discretion of the Superintendent or designee.

- F. Appeals to COMRC: When an incarcerated individual elects to appeal the FMRC's disapproval of a publication, the incarcerated individual shall check the appropriate box on [Form #4572B](#). The incarcerated individual may also, at his or her option, include an appeal letter.

When the sender elects to appeal the FMRC's disapproval of a publication, the sender shall provide a written statement in support of the appeal, a copy of the "Incarcerated Individual Disposition Notice," and if available, a copy of the issue of the publication found to be unacceptable.

An appeal by the incarcerated individual or sender must be submitted to the FMRC within 30 days of the date of the "Incarcerated Individual Disposition Notice." After 30 days from the date of the "Incarcerated Individual Disposition Notice," the FMRC shall forward any appeal received from the incarcerated individual and/or sender, along with the "Incarcerated Individual Disposition Notice" and the publication in question, to the COMRC. Appeals shall be forwarded at facility expense by first class mail or equally prompt means.

- G. 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 incarcerated individual's choice. Should any such publication be in the possession of the FMRC, it shall immediately be forwarded to the incarcerated individual.
- H. Subscriptions: Incarcerated individuals 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, incarcerated individuals wish to subscribe to newspapers, magazines, and periodicals, they will be allowed to do so.
- I. 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. No more than five newspaper clippings or five pages of printed or photocopied materials, including materials printed off of the internet, may be received from other than the publisher within a piece of regular correspondence.

NOTE: The incarcerated individual may choose to return the photocopied materials to the sender at the incarcerated individual's expense or have the photocopied materials destroyed. Only printed or photocopied materials of less than five pages from other than the publisher are subject to review by the FMRC.
  - b. The pages or clippings must not be taped, glued, or pasted together 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 bona fide religious organization. These tapes must be in clear packaging and be reviewed by the Chaplain's Office or Media Review Committee.

- J. 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 incarcerated individual no less than 18 months subsequent to the previous disapproval.

Nothing contained herein shall prevent review of such publications by the FMRC or COMRC prior to 18 months after disapproval, where conditions warrant.

- K. Publications that do not violate the above-listed Media Review Standards, but include advertisements that violate Department rules (i.e., use of postage stamps as legal tender) will be sent to the incarcerated individual with the following warning attached:

#### WARNING

This publication may contain advertisements that offer various goods and services to you, including a subscription to the publication itself in exchange for your postage stamps, in violation of Rule 113.15 of the Standards of Inmate Behavior that governs the sale or exchange of personally owned articles. A response by you to these advertisements or any other advertisements that violate the Standards of Inmate Behavior will subject you to disciplinary action. This warning constitutes a Direct Order, the violation of which will also subject you to a Rule 106.10 disciplinary charge.

- IV. **ESTABLISHMENT OF COMRC**: The COMRC will consist of representatives of Program Services, Security Services, Counsel's Office, and Administrative Services. The Committee will be chaired by the Deputy Commissioner for Programs or their designee.

- A. COMRC Operations

1. The COMRC shall meet at least bi-weekly unless there are no publications awaiting review.

2. All publications appealed to the COMRC will be reviewed, and a decision rendered thereon within three 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. If the incarcerated individual has appealed, he or she shall receive [Form #4572D](#), "Incarcerated Individual Appeal Determination," which will set forth the COMRC appeal determination along with the reason for the determination. If both the sender and the incarcerated individual have appealed the FMRC determination, the sender will be notified by attaching a copy of [Form #4572D](#) to [Form #4572E](#), "Sender Appeal Determination."

If only the sender has appealed, then the COMRC will notify the sender of its determination via [Form #4572E](#) and set forth the reason for the determination on the form.

The COMRC will notify the FMRC Chairperson, in addition to the incarcerated individual and/or sender. The COMRC shall return its appeal determination ([Form #4572D](#), [Form #4572E](#), or both), and the publication in question to the FMRC chairperson. The incarcerated individual will receive a copy of the "Incarcerated Individual Appeal Determination" only.

NOTE: In cases where the COMRC has approved a publication the FMRC shall return material directly to the incarcerated individual.

5. When the COMRC disapproves a publication, the incarcerated individual 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. The publication may be sent at the incarcerated individual's expense to a person of the incarcerated individual's choice (It cannot be sent to another incarcerated individual or a Department of Corrections and Community Supervision Official).
  - c. Have the publication destroyed.

If a choice is not made within 30 days, disposal of the material will be at the discretion of the Superintendent or their designee.

- B. List of Publications Approved by the COMRC: On a monthly basis the COMRC shall prepare a list of all the publications it has approved and forward a copy of that list to each Deputy Superintendent for Programs. Each Deputy Superintendent for Programs will be expected to share that list with the respective FMRC Chairperson, Correspondence Office, Package Room, and the Senior Librarian.