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 DEFINITIONS

.1 References

a. Hawaii Revised Statutes (HRS), Section 712-1210(6) and (7); Section 712-1215.

b. American Correctional Association (ACA), Standards for Adult Correctional Institutions, 4th Edition, 4-4490.

c. ACA, Standards for Adult Local Detention Facilities, 4th Edition, 4ALDF-5B-05, 07

.2 Definitions

a. Pornographic – As defined by HRS Section 712-1210(6):

Any material of performance is "pornographic" if all or the following coalesce:

1) The average person, applying contemporary community standards would find that taken as a whole, it appeals to the prurient interest.

2) It depicts of describes sexual conduct in a patently offensive way.

3) Taken as a whole, it lacks serious literary, artistic, political or scientific merit.

b. Publication – A book (paperback or hardcover), instructional manual, magazine, or newspaper.

c. Censor – The entire withholding of a publication or deleting of part thereof.

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

4.0 PROCEDURES

.1 An inmate may receive publications only from a publisher, a book club or a bookstore. 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. C.O.D. orders shall not be accepted; the inmate, their family or friends must pay for all orders.

.2 Facility Wardens may not establish an excluded list of publications. Individual publications shall be reviewed prior to rejection. Rejection of several issues of a subscription publication is not sufficient reason to reject all further issues of the subscription in its entirety.

.3 When a publication is found unacceptable and withheld, the inmate shall be advised promptly in writing of the decision and the reasons. The notice must contain reference to the specific article(s) or material(s) considered objectionable.

.4 An inmate shall have fifteen (15) calendar days to file an appeal of a rejected publication. If the inmate does not file an appeal within that time period, the rejected publication may, at the option of the inmate, either be

a. Mailed to a party specified by the inmate,
b. Returned to the publisher for refund or,
c. Disposed of by the mail inspector.

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. If the inmate does file an appeal, the rejected publication shall be retained at the facility as evidence in the appeal process.

.5 A publication shall not be rejected solely because its content is religious, philosophical, political, social and sexual or be because its content is socially

unpopular or repugnant.

.6 The following criteria shall be used as a basis for the rejection of a publication:

a. Contains material advocating, advertising or facilitating any criminal activity, such as: escape; physical harm; death to another person; incest; sex involving children; forced sex; robbery; burglary, etc.

b. Contains instructions on the construction or use of weapons, ammunition, bombs or explosives, incendiary devices, handguns or rifles.

c. Depicts or describes procedures for the brewing of alcoholic beverages or the making or cultivation of drugs or poisons or extols the virtues of drug use.

d. Contains sexually explicit material advocating, advertising, soliciting or facilitating:

1) Sado-masochistic activity;

2) Bestiality;

3) Group sex;

4) Sex involving children; and

5) Incestuous activity.

e. Advocates that any ethnic, racial or religious group is inferior for any reason and makes such group an object of ridicule and scorn or may responsibly be thought to precipitate a violent confrontation between recipient(s) and a member or members of the target group.

However, no publication shall be withheld solely on the basis of its appeal to a particular ethnic, racial or religious group.

f. Contains any material that advocates the overthrow of the Government of the United States of America or the State of Hawaii.

g. Contains any material that would have an adverse impact on the rehabilitation of the inmates or on the management and security of the

institution.

h. Depicts, encourages or describes methods of escape from correctional facilities.

i. It is written in code.

j. Depicts, describes or encourages activities which may lead to the use of physical violence or group disruption.

k. Encourages or instructs in the commission of criminal activity.

.7 Sexually explicit material does not include material of news, educational or of an informational nature. As an example, publications covering activities of gay rights organizations or gay religious groups shall be included.

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

.9 Facility Wardens may set limits on the number or volume of publications an inmate may receive or retain in their quarters (for fire, sanitation, or housekeeping reasons.)

5.0 SCOPE

This policy shall apply to all correctional facilities.

APPROVAL RECOMMENDED:

Deputy Director for Corrections — Date 12/11/09

APPROVED:

Director — Date 12/15/09