



# Operating Procedure

<b>Effective Date</b> January 1, 2015	<b>Number</b> 803.2
<b>Amended</b> 2/18/15	<b>Operating Level</b> Department
<b>Supersedes</b> Operating Procedure 803.2 (11/1/11)	
<b>Authority</b> COV §18.2-374, §18.2-374.1:1, §18.2-390, §18.2-391, §53.1-35	
<b>ACA/PREA Standards</b> 4-4490, 4-4496	
<b>Office of Primary Responsibility</b> Special Projects Manager	

<b>Subject</b> <b>INCOMING PUBLICATIONS</b>	
<b>Incarcerated Offender Access</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>FOIA Exempt</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <b>Attachments</b> Yes <input checked="" type="checkbox"/> #1 No <input type="checkbox"/>

## I. PURPOSE

This operating procedure provides for the ordering, review, and processing of incoming publications for offenders housed in Department of Corrections facilities.

## II. COMPLIANCE

This operating procedure applies to all facilities operated by the Department of Corrections (DOC). Practices and procedures shall comply with applicable State and Federal laws and regulations, Board of Corrections policies and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

## III. DEFINITIONS

**Commercial Vendor** - A publisher, organization, or governmental agency that publishes or distributes publications through the mail or a business/vendor that as a usual and regular business provides mail order service to the public. Generally, publications may be ordered from any commercial source which meets this definition. Approved vendor lists for publications may only be established at the Department level and only apply to foreign language publications.

**Community Corrections Facility** - A residential facility operated by the Department of Corrections to provide the Detention Center Incarceration program in accordance with [COV §53.1-67.8](#) or the Diversion Center Incarceration Program in accordance with [COV §53.1-67.7](#).

**Disapproved Publication List** - A document published periodically listing all publications that have been disapproved by the Publication Review Committee

**Facility** - Any Community Corrections facility or institution

**Gang** - A group of individuals who: (a) possess common characteristics that distinguish them from other offenders or groups of offenders and who, as an entity, pose a threat to the safety and security of staff, the facility, other offenders or the community; (b) have a common distinctive goal, symbolism or philosophy; (c) possess identifiable skills or resources, or engage in unauthorized/illegal activities. Criminal street gangs, hate groups, cults, and domestic terrorists that meet these conditions are considered gangs.

**Institution** - A prison facility operated by the Department of Corrections - includes major institutions, field units, and work centers

**Nudity** - The showing (human or cartoon) of the male or female genitals, pubic area, female breast with less than a fully opaque covering of the areola, or male or female buttocks with less than a full opaque covering of the anus

**Publication Review Committee** - A panel whose members are appointed by DOC Senior Management to review publications submitted from DOC facilities to determine if they violate this operating procedure and are therefore not appropriate for possession by an offender in a DOC facility

**Publications** - Any communication such as newspapers, magazines, newsletters or other periodicals, books, brochures, catalogs, compact discs (CDs), or pamphlets that can be subscribed to or ordered from a commercial vendor.

#### IV. PROCEDURE

##### A. Incoming Publications

1. This operating procedure provides information to offenders concerning ordering, receiving, and possessing publications. (4-4490) Refer to Operating Procedure 440.1, *Mailroom Operations and Security* (Restricted), for security considerations relating to publications.
2. Due to the short duration and intense nature of the rehabilitation programs at Community Corrections facilities, offenders at these facilities are not allowed to purchase or possess publications unless specifically approved by the Facility Unit Head.
3. Transient offenders at reception centers should not be allowed to purchase or receive publications due to the short time spent in these facilities.
4. Offenders at DOC institutions should be allowed to subscribe to, order, and receive publications direct from a commercial vendor so long as they do not pose a threat to the security, discipline, and good order of the facility and are not detrimental to offender rehabilitation.
5. Offenders are prohibited from receiving publications that contain nudity, promote violence, disorder, or the violation of state or federal law; or any material containing sexually explicit acts, including child pornography or sexual acts in violation of state or federal law.
6. Any materials received at the facility that may be evidence of criminal activity i.e., child pornography, shall be provided to the institutional investigator or Special Investigations Unit in a manner that preserves its value as evidence. The original materials must be provided, COV §18.2-374 and §18.2-374.1:1 prohibits copying obscene materials and child pornography.

##### B. Rights of Offenders to Access and Possess Publications

1. Offenders retain certain First Amendment rights to free access to publications. Correctional administrators have equally valid responsibilities under the Code of Virginia to maintain security, discipline, and good order in their facilities.
2. These responsibilities include control of contraband, control over disruptive or illegal activities, and concern for the safety and well-being of offenders and facility staff.
3. In order to maintain security, discipline, and good order in DOC facilities and to assist with rehabilitation and treatment objectives, reduce sexual harassment, and prevent a hostile environment for offenders, staff and volunteers, offenders are not permitted to send, receive or possess material that emphasizes explicit or graphic depictions or descriptions of sexual acts or contains nudity as defined in this operating procedure.

##### C. Notification to Offenders - Upon initial assignment to a DOC institution, each offender should be informed of facility procedures governing publications. The offender should be informed that:

1. It is the policy of the DOC to permit offenders to subscribe to, order, and receive publications direct from a commercial vendor - so long as they do not pose a threat to the security, discipline, and good order of the facility and they otherwise comply with the requirements of this operating procedure. Offenders may only receive publications directly from a commercial vendor as defined in this operating procedure.
2. Third party purchase of publications
  - a. Friends and family of offenders may subscribe to periodicals and purchase books to be delivered directly from the vendor to offenders in DOC institutions.
  - b. An offender or friends, family, and visitors of that offender will not be allowed to purchase publications for another offender unless that offender shares a family relationship with the purchaser.
  - c. DOC staff (including other agencies, private contractors, or contract service providers within any DOC facility), or any DOC volunteer will not be allowed to purchase publications for an offender

- without the prior approval of the Facility Unit Head. Both Facility Unit Heads must approve if the transaction involves staff or a volunteer from another correctional facility.
- d. The third party purchaser of any book must be identified on the [Personal Property Request Add/Drop](#) 802\_F1 before the offender will be allowed to receive the book.
  - e. All publications (books and periodicals) must be shipped directly to the offender from a commercial vendor as defined in this operating procedure.
  - f. Third party purchase only from the DOC Contract Vendor will be allowed for compact discs.
3. The offender must secure permission from the Facility Unit Head, or designee (usually mailroom or personal property), prior to ordering or receiving a book, CD, or back issue of a periodical by submitting a [Personal Property Request Add/Drop](#) 802\_F1 in accordance with Operating Procedure 802.1, *Offender Property*.
- a. The offender may be allowed to submit the *Personal Property Request Add/Drop* for books or CDs purchased by third parties after the book or CD arrives at the facility.
  - b. All CDs must be ordered by title and performer from the DOC Contract Vendor
    - i. Offenders at Security Level 4, 5, and S institutions are not allowed to purchase CDs.
    - ii. Offenders may write a letter to the DOC Contract Vendor to request a price quote on CDs not listed in the vendor's catalog.
    - iii. If the DOC Contract Vendor cannot locate the requested CD, the offender's order cannot be filled and the funds submitted are returned via vendor refund check.
4. The JP4 device will be made available to all offenders to download music and non-music audio files from the institution provided kiosks.
- a. The JP4 device must be purchased from the DOC Contract Vendor as provided in Operating Procedure 802.1, *Offender Property*.
  - b. Kiosks will be made available for offender access in designated areas of the institution, days and hours for offender access shall be established by the Facility Unit Head.
  - c. Downloaded content must comply with the *Specific Criteria for Publication Disapproval* section of this operating procedure.
  - d. General rules regarding the access and use of kiosks for downloading music and non-music audio files.
    - i. Offenders may login to the kiosk up to 2 times per day with a minimum time of 1 hour between each login.
    - ii. Each session will last no more than 15 minutes.
    - iii. The system will time out after 2 minutes of inactivity.
    - iv. Offenders are limited to a maximum of 10 previews per 15 minute session, each preview will last no more than 30 seconds.
    - v. Only offenders who have purchased a JP4 device can listen to previews.
  - e. Offenders may submit a trouble ticket through the kiosk to address any issues with the system. Only one trouble ticket will be active at a time, any additional trouble tickets submitted will remain inactive until the active ticket is resolved.
5. Subscriptions to periodicals (newspapers, magazines, or catalogs published on a regular schedule) may be ordered by either the offender or a third party without prior approval from the facility.
6. Catalogs and brochures shall be treated as magazines if they contain a publisher name, publication date, volume/issue number or other identifier, copyright notice, and publisher address in the publication. All other catalogs and brochures will be treated as general correspondence.
7. Offenders are not permitted to receive publications of any kind on a trial basis or which have not been prepaid. Publications which may be obtained free of charge will be considered prepaid if the offender provides documentation that the publication is free.
8. Incoming publications must be properly addressed to the offender.

- a. The following information must be on the address label: offender's name, offender number, and the full name and address of the facility.
  - b. The facility name should be spelled out; abbreviations are not acceptable.
  - c. Publications with incomplete addresses should be delivered if it can be determined which offender is the intended recipient.
  - d. If the address indicates the offender tried to hide that the publication is sent to a correctional facility, delivery to the offender may be denied and the publication returned to the sender.
9. Publications received from private individuals and publications that have been altered (pages, advertisements, or pictures removed, blotted out, etc.), are not authorized, regardless of the source. CDs must be received from the DOC Contract Vendor only.
  10. When a portion of a publication is disapproved, the entire publication will be disapproved. There will be no attempt to remove or censor the disapproved material.
  11. For security purposes, some facilities may remove staples or other binding materials so that the publication must be disposed of on transfer to another facility that would consider the publication altered.
  12. The review process may invalidate any return or refund policy of the vendor associated with the material. The DOC assumes no responsibility in this matter.
  13. Whenever the offender is transferred from one facility to another, it is the offender's responsibility to notify the publisher of change of address.
    - a. The United States Postal Service provides free forwarding of periodicals for only 60 days and does not provide free forwarding for package service mail outside the local area.
    - b. Each facility shall forward periodicals by adding the current address under the offender's name and returning the item to the Post Office. (4-4496)
    - c. The DOC will not forward periodicals or other items once the free forwarding period expires.

#### D. Facility Review - Publication Approval/Disapproval

1. The Facility Unit Head, or designee, should review and approve all offender requests to order publications in accordance with Operating Procedure 802.1, *Offender Property*. If the issue of the periodical or edition of the book which the offender requests has been reviewed and disapproved by the Publication Review Committee (PRC), the request should be denied and the offender notified that the issue/book is not approved for possession by an offender.
2. All publications received at the facility shall be reviewed prior to distribution to an offender.
3. Any publication that contains unauthorized advertising inserts that the offender is not permitted to possess at the facility (to include but not limited to, stickers, CD's/CD ROM's, Collector Cards, Make-Up Samples, Calendars, etc.) may have the unauthorized advertising item removed and disposed of without notification so that the offender may receive the publication.
4. Publications which have not been ordered in accordance with this operating procedure and Operating Procedure 802.1, *Offender Property*, and received directly from a commercial vendor should be disapproved per Operating Procedure 802.1, *Offender Property*, and should not be sent to the PRC (see *Unauthorized and Improperly Received Publications* section of this operating procedure).
5. If the issue of the periodical, CD, or edition of the book is listed as disapproved by the PRC, the publication should be denied and the offender notified using [Notification of Publication Review Committee Disapproval](#) 440\_F5.
  - a. The offender should dispose of the publication in accordance with Operating Procedure 802.1, *Offender Property* and the publication should not be sent to the PRC.
  - b. Unopened CDs may be returned to the DOC Contract Vendor for a refund.
6. The Facility Unit Head shall make a determination on a case-by-case and/or issue-by-issue basis to

approve or disapprove the publication for offender possession in accordance with the *Specific Criteria for Publication Disapproval* section of this operating procedure. Any issue of *Prison Legal News* that is disapproved at any facility must be sent immediately to the office of the Chief of Corrections Operations with detailed explanation of the disapproval. This publication shall not be sent to the Publication Review Committee.

7. Mail room, personal property, or other personnel may perform the initial screening of incoming publications for compliance with this operating procedure, but may not be the Facility Unit Head's designee for the purpose of approving or disapproving offender possession of a publication.
8. When a publication is disapproved, within ten working days of the arrival of the publication at the facility, the Facility Unit Head shall use the [Facility Notification of Publication Disapproval 440\\_F6](#) to advise the offender in writing of the *Specific Criteria for Publication Disapproval*.
  - a. An offender that does not want the publication reviewed by the PRC must advise the Facility Unit Head, or designee, within seven days of notification of disapproval.
  - b. The offender must indicate a choice of the means of disposal of the publication on the *Disposal Section* of the *Facility Notification of Publication Disapproval*
  - c. Disposal of such publications must be completed within 30 days of notification.
  - d. An offender who chooses this option waives the right to appeal disapproval of possession of the publication.
9. The Facility Unit Head, or designee, is responsible for submitting all disapproved publications at least once each month to the PRC.

#### E. Publication Review Committee

1. The DOC Senior Management shall appoint 3 DOC employees as Publication Review Committee (PRC) members.
2. The PRC shall maintain a roster of subject matter consultants for issues such as religion, gangs, artistic/literary value, health care, and mental health. The subject matter consultants shall not be voting members of the PRC.
3. PRC members may review submissions independently based on this operating procedure and submit votes on approval/disapproval for offender possession.
  - a. A majority vote of PRC members shall determine approval/disapproval.
  - b. The Director and Chief of Corrections Operations have the authority to veto PRC actions.
4. Designated support staff shall monitor submissions to the PRC to maintain a list of all publications submitted for review and the outcome of each review.
5. After review, the PRC should return all publications to the facilities from which they were submitted.
6. Approximately once each month the PRC support staff shall compile PRC actions to update the *Disapproved Publications List* for posting on the DOC Virtual Library and notify the affected publishers.
  - a. The Facility Unit Head will make a copy of the *Disapproved Publications List* available for offender review.
  - b. Publications not disapproved shall be delivered to offenders in accordance with this operating procedure.
  - c. When a publication is listed as disapproved, within ten working days the facility shall prepare and send a [Notification of Publication Review Committee Disapproval 440\\_F5](#) to each offender receiving the publication.
7. The PRC support staff shall notify the publisher (see [Notification to Publisher of Publication Disapproval 440\\_F8](#)) of the PRC decision to disapprove the publication for offender possession.
  - a. Notification is not required if the publisher is located in a foreign country and does not have

offices in the United States.

- b. The publisher should be advised that an independent review of the disapproval is available in accordance with the *Appeals of Publication Disapprovals* section of this operating procedure.
- c. If the publication was not disapproved, the publisher will not be notified of the review.

#### F. Appeals of Publication Disapprovals

1. When a publication is disapproved by the PRC, the offender may appeal the decision through the *Offender Grievance Procedure* within seven days of the date of written notification of the PRC decision.
2. When a publication is disapproved by the PRC, the publisher may appeal the PRC decision to the Chief of Corrections Operations within fifteen calendar days of receipt of the written notification that the publication has been disapproved. The office of the Chief of Corrections Operations will provide written notification to the publisher of the final decision within ten days of that decision.

#### G. Unauthorized and Improperly Received Publications

1. Any publication that has not been ordered or received in accordance with all applicable procedures will not be delivered to the offender and will be returned to the sender in accordance with this operating procedure and Operating Procedure 802.1, *Offender Property*.
2. Denial of unauthorized or improperly received publications should be based upon the failure to follow applicable procedures. Such publications should not be reviewed or submitted to the PRC.
3. The offender and the sender will be notified in writing of the reason that delivery was disapproved and advised of the option to appeal the rejection to the Facility Unit Head in accordance with this operating procedure.
4. The Facility Unit Head or designee should deny a publication as unauthorized or improperly received if:
  - a. The publication has not been subscribed to, ordered, and received direct from a commercial vendor.
  - b. The publication is not properly addressed in accordance with this operating procedure.
  - c. The publication is unsolicited, generally mailed, or mass mailed material (bulk mail), such as catalogues, sales brochures, advertising fliers, etc. If this material was not sent as first class mail, it is not necessary to notify the sender or the offender and it should be marked "refused" and returned to the post office.
  - d. The publication received has been altered (pages, advertisements, or pictures removed, blotted out, etc.), even if the offender received prior approval to order the publication. If the publication was altered when received from a vendor, the Facility Unit Head should also notify the PRC of the name and address of the vendor, the publication name, issue number, and the nature of the alteration.

#### H. Specific Criteria for Publication Disapproval

The Facility Unit Head should disapprove a publication for receipt and possession by offenders and forward it to the PRC for final action if the publication can be reasonably documented to violate any of the following criteria:

- A. Material that emphasizes explicit or graphic depictions or descriptions of sexual acts, including, but not limited to:
  1. Actual sexual intercourse (vaginal, anal, or oral) including inanimate object penetration
  2. Secretion or excretion of bodily fluids or substances in the context of sexual activity or arousal
  3. Bondage, sadistic, masochistic, or other violent acts in the context of sexual activity or arousal
  4. Any sexual acts in violation of state or federal law

5. Any manipulation of genitalia or buttocks

Note: This criterion shall not be used to exclude publications that describe sexual acts in the context of a story or moral teaching unless the description of such acts is the primary purpose of the publication. No publication generally recognized as having artistic or literary value should be excluded under this criterion. Questionable materials shall be submitted to the PRC

B. Material that contains solicitations for or promotes activities that are in violation of state or federal law including the abuse or sexual exploitation of children or contains nude depictions of children in the context of sexual activity

C. Instructions or information regarding:

1. Escape techniques
2. Maps, road atlas, directions, etc. that depict a geographic region that could reasonably be construed to be a threat to security
3. The manufacture, simulation, or concealment of weapons, ammunition, explosives, incendiaries, or escape devices
4. The ingredients or manufacture of poisons, drugs, intoxicants, abrasives, corrosives, or other toxic or illegal substances
5. Technical specifications for, or may be used to alter or defeat electronic, mechanical, or other security and communication devices
6. Security techniques
7. Training of personnel or canine units
8. The ability to physically disable, injure, or kill a person

D. Material, documents, or photographs that emphasize depictions or promotions of violence, disorder, insurrection, terrorist, or criminal activity in violation of state or federal laws or the violation of the Offender Disciplinary Procedure

Note: This criterion shall not be used to exclude publications that describe such acts in the context of a story or moral teaching unless the description of such acts is the primary purpose of the publication. No publication generally recognized as having artistic or literary value should be excluded under this criterion. Questionable materials shall be submitted to the PRC

E. Material whose content could be detrimental to the offender rehabilitative efforts or the safety or health of offenders, staff, or others based on the offender's specific criminogenic needs (see *Publications Detrimental to Offender Rehabilitative Efforts* in this operating procedure)

F. Material that depicts, describes, or promotes gang bylaws, initiations, organizational structure, codes, or other gang-related activity or association

G. Material written or communicated in code or in a language other than English or Spanish (unless obtained from an approved vendor, see *Attachment 1*)

H. Books larger than 11 inches by 14 inches

I. Material that contains nudity

Note: Publications containing nudity illustrative of medical, educational, or anthropological content may be acceptable; questionable materials shall be submitted to the Publication Review Committee.

Implementation Plan for Criterion "I": To allow time to cancel subscriptions and receive orders already placed; incoming materials that contain nudity (magazines, picture books, catalogs, commercial photographs, clippings, drawings, etc.) will not be allowed beginning July 1, 2015. Effective October 1, 2015, any materials found in an offender's possession that violate Criterion "I" will be considered contraband subject to seizure and confiscation in accordance with Operating Procedure 802.1, *Offender Property*, and grounds for disciplinary action in accordance with Operating Procedure 861.1, *Offender Discipline, Institutions*.

I. Disapproval of Non-English Language Publications

1. Publications that are written or communicated in languages other than English or Spanish that cannot be readily translated and reviewed for content pose an overriding security concern for the DOC.
2. Publications that are written or communicated in code or entirely in languages other than English or Spanish should be disapproved unless obtained from an approved vendor (see *Attachment 1*).
  - a. Publications that are written or communicated entirely in languages other than English or Spanish that are not from an approved vendor, but appear otherwise acceptable (no inappropriate pictures, etc.) should be disapproved and sent to the PRC for final action and consideration to add the publisher to the approved vendor list.
  - b. The Facility Unit Head has the authority to disapprove publications that are written in code; these publications should not be forwarded to the PRC.
    - i. Any publication containing material that is encrypted or encoded shall be forwarded immediately to the Gang Specialist or institutional investigator to determine if it should be forwarded to the Gang Management Unit for investigation.
    - ii. The offender may appeal the Facility Unit Head's decision through the Offender Grievance Procedure.
    - iii. The facility should hold the publication pending completion of the grievance process
3. Publications that are not completely written or communicated in a foreign language but that contain un-translated foreign text that cannot be readily translated and reviewed should be disapproved and sent to the PRC for final action.
4. The restriction on foreign language publications does not apply to educational materials provided through an approved academic class. All materials placed in facility libraries must comply with this operating procedure.
5. The restriction on foreign language publications does not apply to publications that contain complete, direct translations from a foreign language into English (i.e. English – foreign language dictionaries, language text books, and publications that contain parallel text in English and other languages).
6. Offenders may order and possess specified foreign language religious texts from vendors approved by the Faith Review Committee as a source for foreign language religious texts (see *Attachment 1*).

J. Offenders under the Age of 18

1. Offenders under the age of 18 are not permitted to order or receive publications which state "not to be sold to persons under the age of \_". If such materials are received by the facility for an under age 18 offender, this material is to be returned to the sender with a letter stating that the addressee is underage and cannot receive it. If the material does not contain any disclaimer regarding age but appears to violate COV §18.2-390 or §18.2-391, the publication should be sent to the PRC with a letter indicating that it was received by an underage offender.
2. Offenders under the age of 18 who are found to be in possession of sexually explicit materials are to be charged with "Possession of Contraband" in accordance with the *Offender Disciplinary Procedure*. The offense report should include the offender's date of birth. The contraband is to be seized pending disposal or confiscation in accordance with Operating Procedure 802.1, *Offender Property*.

K. Publications Detrimental to Offender Rehabilitative Efforts

1. *Specific Criteria for Publication Disapproval* provides for publications and other materials to be disapproved if they are determined to be detrimental to offender rehabilitative efforts (Criterion E).
2. This determination should be based on assessment of the individual offender's specific criminogenic factors.
3. Items may be determined to be detrimental by Program, Mental Health, or other appropriate facility

staff. Mailroom staff should not be making this determination without offender-specific guidance and review from Program, Mental Health, or other appropriate facility staff.

4. If the offender disagrees with the determination and does not wish to send out or dispose of the item, the facility shall forward the item to the PRC for review and final determination. Specific pages or passages of the item should be marked with enclosed explanation of the specific criminogenic factors that apply to that offender.

V. REFERENCES

Operating Procedure 440.1, *Mailroom Operations and Security*

Operating Procedure 802.1, *Offender Property*

VI. FORM CITATIONS

[Notification of Publication Review Committee Disapproval](#) 440\_F5

[Facility Notification of Publication Disapproval](#) 440\_F6

[Notification to Publisher of Publication Disapproval](#) 440\_F8

[Personal Property Request Add/Drop](#) 802\_F1

VII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years from the effective date.

*Signature Copy on File*

*11/25/14*

A. David Robinson, Chief of Corrections Operations

Date