

MEDIA POSSESSION BY CLIENTS

Minnesota Sex Offender Program

Issue Date: 8/6/19 Effective Date: 9/3/19 Policy Number: 420-5230

POLICY: The Minnesota Sex Offender Program (MSOP) limits client access to certain media to further the therapeutic environment and maintain the safety and security of the facility for clients, staff and the public.

AUTHORITY: Minn. Stat. §§ 246B.04, subd. 2; 617.241, subd. 1; and 617.246, subd. 1.

APPLICABILITY: MSOP, program-wide

PURPOSE: To provide guidelines for client access to media, supporting the therapeutic environment of the program and complying with the statutory restrictions for MSOP clients' access to certain materials.

DEFINITIONS:

Box set - a set of movies or television seasons or series, which are packaged together and sold as a unit.

Counter-therapeutic media – media deemed by the primary therapist/designee to impede a client's treatment progression as it relates to his/her sexual offending pattern/history.

Digital copy – a commercially distributed computer file containing a media product such as a film or music album.

Made for television film – a feature-length motion picture produced and originally distributed by or to a television network.

Media – pictures, reading materials, music/audio, videos, and video games.

Media Review Committee (MRC) – a team appointed by the facility director(s) and clinical director(s), comprised of a group supervisor, a clinical supervisor/clinical program manager, a Special Services staff and two other clinical staff, or their designees.

Music/audio – commercially-produced compact discs (CDs), and audio books.

Nudity – visibly exposed, unclothed, or uncovered breasts with nipples and/or areola and/or genitals, and/or up close depictions of the subject's anus.

Pictures – include, but are not limited to, paintings, drawings, photographs, prints, photocopies, posters, slides, negatives and computer-generated images.

Prurient – an appeal to a morbid, degrading and unhealthy interest in sex.

Questionable – magazines, books, pictures, and music not clearly identifiable as permitted or prohibited.

Reading materials – include, but are not limited to, magazines, books, periodicals, catalogs, pamphlets, newsletters, newspapers and advertisements.

Season – a collection of episodes aired within a certain time frame that comprise a segment of the show’s overall run.

Series – a connected set of television episodes for a particular program/show, spanning one or more seasons.

Sexual conduct – (see Minn. Stat. § 617.241, subd. 1 and Minn. Stat. § 617.246, subd. 1) includes:

- a. sexual intercourse, including any type of vaginal, oral or anal penetration;
- b. human genitalia in a lewd and explicit fashion;
- c. masturbation;
- d. excretory functions;
- e. sexual relations between a human being and an animal; or
- f. sadomasochistic abuse.

Thumbnail – a reduced size version of a picture or still video image, shown as a separate small copy of the original image.

Videos – include, but are not limited to, commercially-produced videodiscs and movies.

Video games – including, but not limited to commercially-produced video games.

PROCEDURES:

A. Prohibited Media

1. Obscene materials are prohibited (See Minn. Stat. § 246B.04, subd. 2 and Minn. Stat. § 617.241, subd. 1.)

In order to determine that media is obscene, all of the following must be found:

- a) the average person, applying contemporary community standards, would find that the media item, as a whole, appeals to the prurient interest in sex; and
 - b) the media item depicts sexual conduct, as defined in this policy, in a patently offensive manner; and
 - c) the media item, taken as a whole, does not have serious literary, artistic, political, or scientific value.
2. Pornographic work is prohibited (See Minn. Stat. § 246B.04, subd. 2 and Minn. Stat. § 617.246, subd. 1.)
 Pornographic work, as defined by statute:
 - a) an original or reproduction of a picture, film, photograph, negative, slide, videotape, videodisc, or drawing of a sexual performance involving a minor; or
 - b) any visual depiction, including any photograph, film, video, picture, drawing, negative, slide, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means that:
 - 1) uses a minor to depict actual or simulated sexual conduct; or
 - 2) has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct; or

- 3) is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the material is or contains a visual depiction of a minor engaging in sexual conduct.

3. Additional prohibited media

- a) All videos rated “NC-17” or “X” by the Motion Picture Association of America (MPAA).
 - b) All videos rated “R” and “A” by the Canadian Motion Picture Rating System that are not on the current permitted list.
 - c) All videos “Unrated” by the MPAA and not on the current permitted list.
 - d) All videos “Not Rated” by the MPAA and not on the current permitted list, except as permitted in B.1.b).
 - e) All incoming thumbnail images of people.
 - f) Pictures or reading material depicting fully or partially nude minor children with clearly visible genitals.
 - g) Pictures or reading material showing the unclothed or clothed figure of a minor child posing in a sexually suggestive posture or sexual manner.
 - h) Media, which taken as a whole, promotes sexual violence, child molestation, or incest or, which taken as a whole, predominantly and prominently displays nudity and/or sexual conduct and has the primary purpose of sexual arousal.
 - i) Media determined to be contraband per MSOP Division Policy 415-5030, “Contraband.”
 - j) Media displaying scenes or depictions of sexual violence including, but not limited to, rape, physical mutilation, humiliation or torture.
 - k) Pictures or reading materials clearly displaying nudity.
 - l) Video games with an Entertainment Software Rating Board (ESRB) rating of EC (Early Childhood) and RP (Rating Pending).
 - m) Digital copies of media.
 - n) Items of media offered through the Mail-a-Book Program.
 - o) Box sets, seasons or series not on the current permitted list and/or not meeting the criteria in Sections B.1.a) or c) below.
4. Clients are prohibited from purchasing or possessing more than one copy of a media item in any format, with the exclusion of a Blu-ray/DVD combination set.

B. Client Access to Media

1. Videos

- a) All videos rated “G,” “PG” or “PG-13” by the Motion Picture Association of America (MPAA), and television shows aired prior to 1975, or rated “TV-Y,” “TV-Y7,” “TV-G,” “TV-PG,” or “TV-14” are permitted.
 - b) Not Rated videos that are educational or that are related to physical fitness, music concerts, spirituality or relaxation/mindfulness, and made for television films, unless otherwise prohibited under section of A.3 h-j above.
 - c) Videos with the Canadian Motion Picture Rating of “G,” “PG,” and “14A” are permitted.
 - d) Box sets, seasons and series already on the Permitted Media List (420-5230a) or falling under B.1.a) or c). Box sets, seasons or series are permitted only if all discs are permitted.
 - e) A client may submit a Client Request (420-5099a) to have one of the following reviewed per month:
 - (1) an “R” rated video;
 - (2) a Canadian Motion Picture Association “18A” rated video;
 - (3) a “TV-MA” rated video; or
 - (4) a video on the prohibited list which has not already been appealed.
 - f) With approval by his/her primary therapist, and upon review by the MRC, a client may view a video of a major life event. The client may submit a Client Request (420-5099a) to keep the video in his/her possession, in consultation with and approval from the clinical supervisor and unit group supervisor/Community Preparation Services (CPS) Operations Supervisor.
 - f) Media provided by MSOP that would otherwise be prohibited (including obscene material and pornographic work) may be viewed for therapeutic purposes (see MSOP Division Policy 215-5030, “Arousal Management/Hypersexuality Programming”).
 - g) CPS clients in the Re-entry Stage may purchase used items during community outings; but may not receive them via mail or during visits.
2. Magazines - clients may order magazines not containing or qualifying as prohibited material.
3. Newspapers - clients may order or receive newspapers with the exception of:
- a) *The Star Gazette*;
 - b) *Pine Journal*;
 - c) *Askov American*;
 - d) *The St. Peter Herald* ((CPS) clients in re-entry stage only – newspaper may be allowed with the approval of the client’s clinical supervisor and CPS Operations Manager; clients may not share these with any other client); and
 - e) *The Mankato Free Press* (CPS clients in re-entry stage only – newspaper may be allowed with the approval of the client’s clinical supervisor and CPS Operations Manager; clients may not share these with any other client).

4. Books - clients may order books not containing or qualifying as prohibited material.
5. Music - clients may purchase or acquire new music.
6. Pictures - clients may receive pictures not containing or qualifying as prohibited material.
7. Video Games
 - a) Games rated “E,” “E10+,” or “T” by the ESRB, and those currently on the Permitted Video Game List (420-5230b) are permitted.
 - b) The MRCT reviews the Permitted Video Game List (420-5230b) annually for possible additions.

C. Processing Media

1. Special Services staff visually scan all media when it arrives at the facility.
2. If a video, book, or magazine is on the Prohibited Media List, Special Services staff must secure the item as contraband and send the client a Contraband Notice (420-5250b).
3. If the media contains or qualifies as another form of contraband under MSOP Division Policy 415-5030, “Contraband,” MSOP Division Policy 225-5310, “CPS Contraband,” MSOP Division Policy 420-5250, “Client Property,” or MSOP Division Policy 225-5300, “CPS Client Property.” Special Services staff must secure the item as contraband and send the client a Contraband Notice (420-5250b).
4. If a media item is on the Permitted Media List, or is otherwise categorically permitted under this policy, Special Services staff process the item according MSOP Division Policy 420-5250, “Client Property.”
5. Special Services staff secure any incoming videos not categorically permitted and not on the prohibited list and send the client a Contraband Notice (420-5250b). Upon receiving the Contraband Notice (420-5250b), the client may:
 - a) respond and designate his/her chosen disposition; or
 - b) follow the process in section B.1.e) above.
6. MSOP processes all videos with both an MPAA and Canadian rating based on the MPAA rating only.
7. Special Services staff must secure questionable books, music, magazines, and all pictures on a Notice and Receipt of Secured Items form (420-5250a) and route it to the MRC for review.
8. Staff may secure questionable media as part of a room search, and place it on a Notice and Receipt of Secured Items form (420-5250a) and route to the primary therapist/designee .

D. Media Review Committee

1. The MRC reviews books, music, magazines, all pictures, and client-requested video reviews as described in section B.1.e) above. The review may include viewing, reviewing, watching, reading, researching, listening to or scanning the item to determine whether it contains prohibited material as defined in section A.

2. If it appears the MRC missed prohibited material in an otherwise permitted video, a member of the MRC presents the original disposition and the newly-discovered material to the facility clinical director/designee for final determination.
3. The MRC updates the Permitted and Prohibited Media List monthly (except for the Permitted Video Game List (420-5230b), which is updated annually) and sends it to the MSOP Policy and Compliance Director to be uploaded on the Client Computer Network.
4. The MRC meets at least every other week and keeps meeting minutes.
5. The MRC documents the outcome of reviews on a Notice and Receipt of Secured Items (420-5250a) and/or a Contraband Notice (420-5250b).
6. If the media is permitted, Special Services staff distribute the item to the client.
7. The MRC may route permitted media to the primary therapist/designee to determine if it is counter-therapeutic for a particular client. The primary therapist/designee has ten business days to review the media routed by the MRC. The MRC notes in the meeting minutes if an item was referred to the primary therapist.
8. Clients may appeal the decision of the MRC to the clinical supervisor/designee on a Client Request (420-5099a) and by marking the appropriate box on the Contraband notice (420-5250b). The clinical supervisor/designee notes his/her decision on the Client Request (420-5099a) and returns it to the client.
9. If a client appeals a prohibited decision on a media item, the required disposition timeframe is stayed until the clinical supervisor/designee has made a determination. If the clinical supervisor/designee deems the media prohibited, Special Services staff complete a Contraband Notice (420-5250b).
10. Media identified by staff as potentially violating federal or state laws are secured as evidence according to DCT Security Policy 145-1035, "Evidence Handling by Staff" and routed to the Office of Special Investigations (OSI) for review.

E. Primary Therapist/Designee Review and Input

1. As outlined in section D.7 above, or as part of the treatment process, a primary therapist, in consultation with the clinical supervisor, may review a client's media items to determine if media is counter-therapeutic.
2. Through review, the primary therapist, in consultation with the clinical supervisor, determines if certain media is counter-therapeutic for a particular client because it is related to his/her sexual offending pattern, which may include previously permitted media.
3. When media is determined to be counter-therapeutic, the primary therapist meets with the client and documents the meeting in an Individual Progress Note (215-5007d-4020) (Phoenix).
4. A client is required to send out, at his/her expense, or dispose of media deemed to be counter-therapeutic by his/her treatment team.

5. Clients are expected to discuss media depicting sexual conduct in their core therapy group(s) and with their primary therapist.
6. As part of the treatment process, otherwise permitted materials the client has misused in the past may be prohibited, providing the restriction is proportionate to the misuse.

REVIEW: Annually

REFERENCES: Minn. Stat. § 246B.04, subd. 2: “Ban on Obscene Material or Pornographic Work.”
Minn. Stat. § 617.241.
Minn. Stat. § 617.246.
MSOP Division Policy 420-5250, “Client Property”
MSOP Division Policy 225-5300, “CPS Client Property”
MSOP Division Policy 420-5030, “Client Mail”
MSOP Division Policy 415-5030, “Contraband”
MSOP Division Policy 225-5310, “CPS Contraband”
MSOP Division Policy 220-5047, “Library Use”
MSOP Division Policy 415-5010, “Searches – Clients”
MSOP Division Policy 225-5020, “CPS Client Liberties”
MSOP Division Policy 220-5055, “Game Systems”
MSOP Division Policy 215-5030, “Arousal Management/Hypersexuality Programming”
DCT Security Policy 145-1035, “Evidence Handling by Staff”

ATTACHMENTS: Permitted Media and Prohibited Media Lists (420-5230a)
Permitted Media and Prohibited Media Lists (420-5230a) (18-pt font)
Permitted Video Game List (420-5230b)

Contraband notice (420-5250b)
Notice and Receipt of Secured Items (420-5250a)
Client Request (420-5099a)
Individual Progress Note (215-5007d-4020) (Phoenix)

SUPERSESSSION: MSOP Division Policy 420-5230, “Media Possession by Clients,” 2/5/19.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

/s/
Nancy A. Johnston, Executive Director
Minnesota Sex Offender Program