

FORM OF ORDER AND TRANSMITTAL BY BOARD, COMMISSION, OR COUNCIL

State of Washington

CORRECTIONS STANDARDS BOARD

(name of governing body)

(agency name, if applicable)

Resolution No. \_\_\_\_\_

Administrative Order No. 84-50

(1) Be it resolved by the CORRECTIONS STANDARDS BOARD

acting at Cavanaugh's River Inn - North 700 Division - Spokane, WA 99202

(place)

that it does adopt the annexed rules relating to:

- Amendments to WAC 289-22-200(3) Library Services
- WAC 289-15-210(1) Fire Prevention and Suppression
- WAC 289-19-110(3) Prisoner Rules of Conduct
- WAC 289-19-220(2) Discipline

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. 16-043, 84-16-044 and 84-16-045 filed with the code reviser on 7/27/84. These rules shall take effect:

- thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).
- at a later date, such date being \_\_\_\_\_.

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

We, \_\_\_\_\_, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026<sup>1</sup> that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

- (a) This rule is promulgated pursuant to RCW \_\_\_\_\_ and is intended to administratively implement that statute.
- (b) This rule is promulgated pursuant to RCW \_\_\_\_\_ which directs that the \_\_\_\_\_

(agency)

has authority to implement the provisions of \_\_\_\_\_

(name of act or RCW citation)

- (c) This rule is promulgated under the general rule-making authority of the CORRECTIONS STANDARDS BOARD

(agency)

as authorized in RCW 70.48.050(3)(c)

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this governing body, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED October 5, 19 84

OCT 12 1984

By Robert W. Cote

CODE REVISER'S OFFICE

Robert W. Cote, Executive Secretary

Title

WSR 84-21-042

AMENDATORY SECTION (Amending Order 10, filed 3/18/81)

WAC 289-22-200 SERVICES. (DETENTION AND CORRECTIONAL FACILITIES.) (1) Commissary.

(a) The department of corrections or chief law enforcement officer of each detention and correctional facility shall either establish, maintain, and operate a commissary, or provide prisoners with a list of approved items to be purchased at least once a week at local stores.

(b) Commissary items shall include books, periodicals, and newspapers, or the facility shall make arrangements to order any such items from publishers and/or local newsstands.

(c) Proceeds from a jail facility store shall be used for operation and maintenance of the commissary service and/or prisoner welfare expenses.

(d) If jail rules do not permit prisoners to keep money on their persons, payments for commissary purchases shall be made by debit on a cash account maintained for the prisoner. All expenditures from a prisoners account shall be accurately recorded and receipted.

(2) Basic hair care. All jails shall make reasonable arrangements to provide basic hair care.

(3) Library services. In ~~((conjunction))~~ consultation with state and/or local library service units, each jail shall make provision for library services.

(4) Legal assistance.

(a) When adequate professional legal assistance is not available to prisoners for purposes of preparing and filing legal papers, a jail shall provide access to necessary law books and reference materials.

(b) Facility rules shall not prohibit one prisoner from assisting another in the preparation of legal papers.

(5) Religious services.

(a) Upon request from a prisoner, the jail facility shall arrange religious services or confidential religious consultation.

(b) Detention and correctional facilities with an average daily population of twenty-five or more shall arrange for weekly religious services.

(c) Prisoners should be permitted to observe religious holidays and receive sacraments of their faith. WAC 289-22-200 (5) (c) ADVISORY.

(d) Attendance at religious services shall be voluntary, and prisoners who do not wish to hear or participate shall not be exposed to such services.

(6) Counseling, guidance, and ancillary services.

(a) Counseling services should be available to provide prisoners in detention and correctional facilities with an opportunity to discuss their problems, interests, and program. WAC 289-22-200 (6) (a) ADVISORY.

(b) The department of corrections or chief law enforcement officer may utilize volunteer counseling resources available in the community. WAC 289-22-200 (6) (b) ADVISORY.

(c) Professionals should serve in an advisory capacity when jail facility personnel or community volunteers engage in counseling. WAC 289-22-200 (6) (c) ADVISORY.

(d) Counselors may submit written recommendations to the chief law enforcement officer or disciplinary review body. WAC 289-22-200 (6) (d) ADVISORY.

(e) Prisoners shall not be required to receive counseling services unless ordered by the appropriate court or the disciplinary review body.

(f) Prisoners being discharged should receive assistance in obtaining employment, housing, acceptable clothing, and transportation. WAC 289-22-200 (6) (f) ADVISORY.

AMENDATORY SECTION (Amending Order 10, filed 3/18/81)

WAC 289-15-210 FIRE PREVENTION AND SUPPRESSION. (DETENTION AND CORRECTIONAL FACILITIES.) (1) The department of corrections or chief law enforcement officer shall consult with the local fire department having jurisdiction over the facility in developing a written fire prevention and suppression plan which shall include, but not be limited to:

(a) A fire prevention plan to be part of the operations manual of policies and procedures;

(b) A requirement that staff are alert to fire hazards during their daily rounds.

(c) Fire prevention inspections at least semi-annually by the fire department having jurisdiction; provided, that when such inspections cannot be obtained from such fire department the facility shall provide such inspections by an independent, qualified source.

(d) Recommendations resulting from inspections should be promptly implemented WAC 289-15-210 (1) (d) ADVISORY; and

(e) A regular schedule for inspections, testing and servicing fire suppression equipment.

(2) Results of all fire department inspections shall be kept on file at the jail, together with records of actions taken to comply with recommendations from such reports.

AMENDATORY SECTION (Amending Order 13, filed 3/24/81)

WAC 289-19-110 PRISONER RULES OF CONDUCT. (HOLDING FACILITIES.)

(1) Rules established.

(a) The department of corrections or chief law enforcement officer shall establish uniform rules and disciplinary sanctions to guide the conduct of all prisoners which rules shall designate major and minor infractions. (30 day, 72 hour)

(b) Appropriate rules relating to the imposition of discipline, if any, shall be established in writing. (6 hour)

(2) Prisoners informed.

(a) Printed rules and possible disciplinary sanctions shall be given to each prisoner and/or posted conspicuously within the jail or conveyed orally to each prisoner. Reasonable efforts shall be made to inform non-English speaking prisoners. (30 day, 72 hour)

(b) Prisoners shall be informed of facility rules and sanctions, if any are established. (6 hour)

(3) Major infractions. If major infractions are handled within the facility, rather than as criminal proceedings, the following shall apply:

(a) All major infractions of the rules shall be reported in writing to the supervisor prior to shift change by the staff member observing or discovering the act. Such reports shall become a part of the prisoner's jail record.

(b) Disciplinary committee.

(i) The director of the department of corrections or the chief law enforcement officer or such person's designee or designees shall hear and decide all charges of major violation of facility rules and impose sanctions. (30 day) (Not applicable - 72 hour, 6 hour)

(ii) It is recommended, but not required, that there be a committee of two or more staff to perform the function of disciplinary committee. (30 day) WAC 289-19-110 (3) (b) (ii) ADVISORY. (Not applicable - 72 hour, 6 hour)

(iii) Any facility staff member involved in a charge shall not be allowed to participate as a hearing officer with respect to that charge. (30 day) (Not applicable - 72 hour, 6 hour)

(c) Disciplinary procedures.

(i) Any charge pending against a prisoner shall be acted on as soon as possible and no later than (~~forty-eight~~) seventy-two hours (exclusive of Saturdays, Sundays, and holidays) after observation or discovery of the infraction. Action in this context means either a disciplinary hearing or a decision not to impose any sanction requiring a hearing. (30 day) (Not applicable - 72 hour, 6 hour)

(ii) At least twenty-four hours prior to hearing, the prisoner shall receive a copy of the written infraction report made in conformance with WAC 289-19-110 (3) (a). If the prisoner is illiterate, the infraction report shall be read to him. (30 day) (Not applicable - 72 hour, 6 hour)

(iii) The prisoner alleged to have committed a major infraction shall have, and be promptly advised of, the following rights:

(A) The prisoner shall have the right to be present at all stages of the hearing, except during the decisional deliberations;

(B) The prisoner shall be allowed to appear on his own behalf, to present witnesses, and to present documentary evidence unless the exercise of such rights would be unduly hazardous to institutional safety or correctional goals, in which case the prisoner shall be given a written statement of the reasons for such judgements and the prisoner's record shall contain a statement with regard to such grounds;

(C) A prisoner who is unable to represent himself in such a hearing shall be informed of his right to be assisted by another person in understanding and participating in the proceedings;

(D) The prisoner shall be advised of the decision in a written notice giving the reasons for the disciplinary action, if any, and evidence relied on; and

(E) The prisoner shall be permitted to appeal the disciplinary hearing decision to the department of corrections or the chief law

enforcement officer or his or her designee in accordance with appeal procedures established by each facility and included in the printed rules. (30 day) (Not applicable - 72 hour, 6 hour)

(iv) All disciplinary proceedings shall be recorded. (30 day) (Not applicable - 72 hour, 6 hour)

(v) There shall be a finding of guilt based on the preponderance of evidence before imposition of a sanction. (30 day) (Not applicable - 72 hour, 6 hour)

(4) Minor infractions. Minor infractions may be handled by any staff person by reprimand, warning, or minor sanction as defined by local rules. Such incidents may become part of the prisoner's record only with the approval of the supervisor and verbal notification to the prisoner.

AMENDATORY SECTION (Amending Order 10, filed 3/18/81)

WAC 289-19-220 DISCIPLINE. (DETENTION AND CORRECTIONAL FACILITIES.) (1) Disciplinary committee.

(a) The director of the department of corrections or the chief law enforcement officer or such person's designee or designees, shall hear and decide all charges of major violation of facility rules and impose sanctions.

(b) It is recommended, but not required, that there be a committee of two or more staff to perform the function of disciplinary committee. WAC 289-19-220 (1) (b) ADVISORY.

(c) Any facility staff member involved in a charge shall not be allowed to participate as a hearing officer with respect to that charge.

(2) Disciplinary procedures.

(a) Any charges pending against a prisoner shall be acted on as soon as possible and no later than ((~~forty-eight~~)) seventy-two hours (exclusive of Saturdays, Sundays, and holidays) after observation or discovery of the infraction. Action in this context means either a disciplinary hearing or a decision not to impose any sanction requiring a hearing.

(b) At least twenty-four hours prior to hearing, the prisoner shall receive a copy of the written infraction report made in conformance with WAC 289-19-210(3). If the prisoner is illiterate, the infraction report shall be read to him.

(c) The prisoner alleged to have committed a major infraction shall have, and be promptly advised of, the following rights:

(i) The prisoner shall have the right to be present at all stages of the hearing, except during the decisional deliberations;

(ii) The prisoner shall be allowed to appear on his own behalf, to present witnesses, and to present documentary evidence unless the exercise of such rights would be unduly hazardous to institutional safety or correctional goals, in which case the prisoner shall be given a written statement of the reasons for such judgments and the prisoner's record shall contain a statement with regard to such grounds;

(iii) A prisoner who is unable to represent himself in such a hearing shall be informed of his right to be assisted by another person in understanding and participating in the proceedings;

(iv) The prisoner shall be advised of the decision in a written notice giving the reasons for the disciplinary action, if any, and evidence relied on; and

(v) The prisoner shall be permitted to appeal the disciplinary hearing decision to the department of corrections or the chief law enforcement officer or his or her designee in accordance with appeal procedures established by each facility and included in the printed rules.

(d) All disciplinary proceedings shall be recorded.

(e) There shall be a finding of guilt based on the preponderance of evidence before imposition of a sanction.

(f) The above provisions do not preclude imposition of administrative segregation, according to procedures required by WAC 289-16-230(4), or other appropriate limitations on freedom of the prisoner involved prior to such disciplinary proceeding: PROVIDED, That every such restriction shall be in accordance with the other provisions in these standards: PROVIDED FURTHER, That any such restrictions shall be based on legitimate grounds of institutional security or prisoner safety, and such action shall be noted in the prisoner's records.

(3) Corrective action or forms of discipline.

(a) Nonpunitive corrective action should be the first consideration in all disciplinary proceedings. WAC 289-19-220 (3)(a) ADVISORY.

(b) When punitive measures are imposed, such measures shall be in accordance with law, and recommended sanctions, appropriate to the severity of the infraction, and based on considerations of the individual involved.

(c) Acceptable forms of discipline shall include the following:

(i) Loss of privileges;

(ii) Removal from work detail or other assignment;

(iii) Recommendation of forfeiture of "good time" credit;

(iv) Transfer to the maximum security or segregation section.

(4) Limitations on punishment.

(a) No prisoner or group of prisoners shall be given authority to administer punishment to any other prisoner or group of prisoners.

(b) Deprivation of regular feeding, clothing, bed, bedding, or normal hygienic implements and facilities shall not be used as a disciplinary sanction.

(c) Correspondence privileges shall not be denied or restricted, except in cases where the prisoner has violated correspondence regulations. In no case shall the correspondence privilege with any member of the bar, holder of public office, the courts or the department of corrections or chief law enforcement officer be suspended.

(d) Restrictions on visitation.

(i) Visitation privileges should not be denied or restricted as a sanction for infractions of rules of the institution unrelated to visitation. WAC 289-19-220 (4)(d)(i) ADVISORY.

(ii) Under no circumstances shall attorney-client visits be restricted.

(e) No prisoner shall be held in disciplinary segregation for more than five consecutive days without review by the disciplinary hearing body or chief law enforcement officer or his or her designee, and in no event shall a prisoner be held in disciplinary segregation for more than ten consecutive days as the result of any one hearing.

(f) Corporal punishment and physical restraint (e.g., handcuffs, leather restraints, and strait jackets) shall not be used as sanctions.