

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DEPARTMENT OF CORRECTIONS

(agency name)

Administrative Order No. 82-14

(1) I, Amos E. Reed, director of Department of Corrections

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

New Section 137-48 - Adult Correctional Institutions - Inmate Mail
Repeal WAC 275-96

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

This action is taken pursuant to Notice No. filed with the code reviser on 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.

I, Amos E. Reed, 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:
A procedure needs to immediately be established to ensure the uniform receipt and sending of mail by inmates, thereby improving the general welfare and safety in institutions.

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 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)

- [X] (c) This rule is promulgated under the general rule-making authority of the

Department of Corrections

(agency)

as authorized in RCW 72.09.05, 72.08.380 and 72.12.140

(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 agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED December 23 19 82
FILED

JAN 4 1983

CODE REVISER'S OFFICE
WSR 83-02050

By Amos E. Reed, Secretary
Title

Chapter 137-48 WAC

ADULT CORRECTIONAL INSTITUTIONS - INMATE MAIL

NEW SECTION

WAC 137-48-010 PURPOSE. The purpose of these rules is to maintain the safety, security, and discipline of adult correctional facilities operated under the jurisdiction of the department of corrections in accordance with Title 72 RCW et al., by establishing guidelines for the development of department and institution level policies and rules governing the receipt and sending of mail by inmates to prevent the transmission of illegal items or contraband into or out of an institution.

NEW SECTION

WAC 137-48-020 DEFINITIONS. (1) "Contraband" consists of all illegal items, alcoholic beverages, and other items which a resident of a correctional institution may not have in his/her possession, as defined in regulations adopted by the superintendent of an institution and approved by the secretary.

(2) "Emergency situations" are critical illnesses, deaths, emotional crises, or similar situations experienced by members of the inmate's family or the inmate.

(3) "Illegal items" are narcotic drugs or any weapon, firearm, or any instrument which, if used, could produce serious bodily injury to the person of another.

(4) "Indigent inmate" means an inmate who has not been credited with more than ten dollars from any source for deposit to the inmate's trust fund during the thirty days preceding a mail request of postage to be paid by the institution or has less than a ten dollar balance in his/her trust fund account.

(5) "Inspection of mail" means the physical act of opening, touching, smelling, and/or reading of mail, the use of mechanical or chemical systems and/or the use of animals to determine the presence of contraband or illegal items.

(6) "Legal correspondence" consists of mail addressed to or from attorneys or government officials as listed in WAC 137-48-030(2).

(7) "Letters" consists of personal communications and enclosures to and from inmates including, but not limited to, handwritten or typed communications.

(8) "Mail" consists of letters, publications, or packages delivered by the United States Post Office or by other means.

(9) "Packages" means the immediate container or wrapping and the contents therein in which any item is contained for consumption, use or storage by inmates, and for purposes of this chapter, also means any shipping container or outer wrapping and the contents therein used by retailers to ship or deliver any item to inmates where it is the only such container or wrapping.

(10) "Publications" consists of reproduced handwritten or pictorial materials including books, periodicals, newspapers, and pamphlets.

(11) "Secretary" is the secretary of the department of corrections or his/her designee(s).

(12) "Superintendent" means the superintendent of a correctional facility or his/her designee(s).

NEW SECTION

WAC 137-48-030 INSPECTION OF MAIL. (1) Mail to or from persons or organizations other than those identified in subsection (2) of this section shall be inspected by institution staff.

(2) Mail to government officials as set forth below will be inspected for contraband, initialed, and sealed in the presence of the inmate sending the mail or shall be opened in the presence of the inmate when said mail is sent from government officials listed below. Mail identified as from attorneys, judges, or clerks of the courts may be inspected but not read.

Mail addressed to attorneys representing the inmate or soliciting an attorney's representation shall not be opened or read without the written consent of the inmate. All mail falling under this subsection shall be marked "legal mail." Legal mail consists of the following:

(a) Any officer of the court of the United States or the state of Washington (judges, attorneys, and clerks of the court, etc.).

(b) Any member of the congress of the United States or any member of the Washington state legislature.

(c) The president of the United States or the governor of the state of Washington.

(d) The attorney general of the United States or the attorney general of the state of Washington or their assistants.

(e) The director or any agent of the Federal Bureau of Investigation.

(f) The secretary of the department of corrections.

(g) The director of the division of prisons or any official of the department of corrections above the officer in charge of the unit or institution to which the inmate is assigned.

(h) Any official of the board of prison terms and paroles.

(3) All mail to or from inmates is subject to inspection at any time by institution staff but may be disapproved for mailing or receipt only upon the criteria set forth in WAC 137-48-040 subject to the limitations set forth in this chapter. No person who inspects or participates in the inspection of an inmate's mail shall disclose the contents of such mail to any person unless it appears such mail violates these rules, in which case, disclosure shall be only in the course of his or her duties.

(4) Mail containing illegal items or contraband shall be held and disposed of in accordance with those procedures set forth in chapter 137-36 WAC and in this chapter.

NEW SECTION

WAC 137-48-040 RESTRICTION OF INCOMING AND/OR OUTGOING MAIL.

(1) Incoming mail to inmates may be disapproved for receipt for any one of the following reasons:

(a) The mail contains threats of physical harm against any person or threats of criminal activity.

(b) The mail threatens blackmail or extortion.

(c) The mail concerns sending contraband in or out of the institution.

(d) The mail contains plans to escape.

(e) The mail contains plans for activities in violation of institutional rules, such as riots.

(f) The mail concerns plans for criminal activity.

(g) The mail is in code or in a foreign language and its contents are not understood by the reader.

(h) The mail contains information which, if communicated, would create a risk of violence and/or physical harm.

(i) The mail contains contraband.

(j) The mail contains obscene material as defined in department policy directives.

(2) Outgoing mail from inmates of institutions may be disapproved for mailing for any one of the following reasons:

(a) For any one of the reasons set forth in WAC 137-48-040(1).

(b) The mail is addressed to a minor whose parents or guardian have objected in writing to such correspondence; an individual previously has been sent obscene or threatening mail by the inmate and has complained or has asked that such mail not be received; the mail solicits money or goods from persons other than the immediate family of the inmate.

(3) No letter is to be restricted for the reason that it contains critical opinions of departmental policy or departmental employees.

(4) In addition to those reasons cited in this section, publications received by inmates may be restricted if:

(a) It advocates that any ethnic, racial, or religious group is inferior for any reason and makes such group an object of ridicule and scorn; or

(b) It may reasonably be thought to precipitate a violent confrontation between the recipient(s) and a member(s) of the target group. No publications will be withheld solely on the basis of their appeal to a particular ethnic, racial, or religious group.

(5) In addition to those reasons cited in this section, packages sent either to or from an inmate are subject to the following restrictions:

(a) An inmate may receive one gift package not to exceed fifteen pounds in weight on a quarterly basis. Quarterly periods shall consist of December through February, March through May, June through August, and September through November. Rules governing the contents of quarterly packages shall be developed specifically by each institutional superintendent and approved by the secretary. The superintendent may allow exceptions from the one gift package limitation and weight limitation provided that appropriate contraband controls are maintained.

(b) The contents of the quarterly package shall be restricted to those items that are otherwise not available to the inmate through the institutional store. A replacement package may be sent during the same quarter for damaged packages that are returned to the sender by the inmate. Packages containing contraband shall be refused delivery to the inmate and will be counted as the package for that quarter.

(c) Prepaid merchandise approved by the superintendent and ordered by the inmate from any wholesaler or retailer shall not be considered one of the quarterly packages.

(d) Inmates may mail packages containing materials which have been sent to him or her in the institution or gifts consisting of his or her own hobby craft or curio work. Packages must be made and mailed at the inmate's expense.

(e) Newly admitted inmates at the Washington Corrections Center will not receive packages while assigned to the reception center.

NEW SECTION

WAC 137-48-050 PROCEDURES FOR RESTRICTIONS OF INCOMING AND/OR OUTGOING MAIL. (1) If an inmates's incoming or outgoing mail is restricted, notification shall be provided to the inmate in writing of the specific publication, letter, or package which has been censored and the reason for this action.

(2) The inmate shall be advised in writing of his/her right to seek review of the decision to restrict his/her mail. The review shall be sought by writing directly to the director of the division of prisons or his/her designee(s) within ten calendar days.

(3) Upon receipt of an inmate's appeal, the director of prisons or his/her designee shall affirm or reverse the action taken at the institution level and shall advise the inmate in writing of this

action within ten working days from the receipt of the inmate's written request.

(4) When a decision is rendered regarding a particular issue of a publication, that decision shall be binding for all facilities in the division of prisons.

(5) If a package contains contraband and is subject to criminal prosecution, the entire package will be turned over to the appropriate law enforcement agency. Items of contraband not subject to criminal prosecution will be disposed of in accordance with those procedures set forth in chapter 137-36 WAC. Noncontraband items in the package will be forwarded to the inmate.

NEW SECTION

WAC 137-48-060 MAIL COSTS. (1) Except as otherwise stated in this section, mail costs shall be the responsibility of the inmate.

(2) Mail which arrives at the institution with postage due may, at the option of the superintendent, be delivered to the inmate. The institution may pay the postage due in accordance with subsection (3) of this section, or hold the mail for a reasonable period of time so as to allow the inmate to arrange for payment of the postage due. If such arrangements are not made within the time provided, the package may be donated to charity or discarded.

(3) Indigent inmates shall be authorized to receive postage for a maximum of five letters per week (each weighing one ounce or less). This postage shall cover both legal and regular correspondence irrespective of the number of letters identified as legal mail. This shall also include costs advanced by the institution for postage due mail.

NEW SECTION

WAC 137-48-070 MAIL RECORDS. The institution superintendent or his/her designee(s) shall be responsible for the maintenance of a continuous record showing the source and destination of legal and official correspondence to and from government officials, packages and items of monetary value mailed by or mailed to an inmate. The secretary shall establish procedures for each institution governing the written mail record.

NEW SECTION

WAC 137-48-080 IMPLEMENTATION. The secretary may adopt rules and regulations implementing this chapter.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 275-96-005 DEFINITIONS.
- (2) WAC 275-96-010 COMMUNICATION--PURPOSE.
- (3) WAC 275-96-015 COMMUNICATION--GENERAL LIMITATIONS.
- (4) WAC 275-96-021 OUTGOING MAIL.
- (5) WAC 275-96-022 INCOMING MAIL.
- (6) WAC 275-96-025 SPECIAL RULES--INCOMING PUBLICATION LIMITATIONS AND CONTROLS.
- (7) WAC 275-96-030 SPECIAL RULES REGARDING PACKAGES--LIMITATIONS AND CONTROLS.
- (8) WAC 275-96-045 HANDLING OF MAIL.
- (9) WAC 275-96-050 TREATMENT OF CASH AND CHECKS.
- (10) WAC 275-96-055 LEGAL MAIL.
- (11) WAC 275-96-060 STATIONERY AND POSTAGE.
- (12) WAC 275-96-065 USE OF TELEPHONE.
- (13) WAC 275-96-070 PROCEDURE FOR DISAPPROVAL OF RESIDENT MAIL.