



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

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November 19, 1991

Gary Reid
Chief Assistant Code Reviser
Office of the Code Reviser
Legislative Building, MS: AS-15
Olympia, WA 98504

Dear Mr. Reid:

The following attached Department of Corrections WAC rules 137-48-010, 137-48-020, 137-48-030, 137-48-040, 137-48-050, 137-48-060, 137-48-070 and 137-48-080 are submitted for publication in the Register and the Washington Administrative Code. Pertinent information is as follows:

- a. Amended rules 137-48-010 through 080 were adopted on November 15, 1991.
- b. The effective date of these amended rules is January 1, 1992.
- c. I certify pursuant to RCW 34.05.030 (c) that Rules 137-48-010 through 080 are exempt from the APA.
- d. The purpose is to establish guidelines for departmental policies and rules governing receipt and sending of inmate mail.

Thank you for your assistance. Please contact me if you have questions or concerns.

Sincerely,

Chase Riveland
Secretary

CODE REVISER'S OFFICE
STATE OF WASHINGTON
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AMENDATORY SECTION (Amending Order 83-09, filed 9/27/83)

WAC 137-48-010 PURPOSE. The purpose of these rules is to maintain the safety, security, and discipline of adult ((correctional)) prisons and pre-release 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)) departmental, division, 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. These rules shall not apply to work release facilities under the jurisdiction of the department.

AMENDATORY SECTION (Amending Order 84-04, filed 3/26/84)

WAC 137-48-020 DEFINITIONS. (1) "Contraband" consists of all illegal items, explosives, instruments which if used may cause bodily harm to the person of another, weapons, deadly weapons, 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)) drugs, or controlled substances as defined by chapter 69.50 RCW. Contraband also includes any item that is controlled, limited, or prohibited on the grounds or within the secure perimeter of a correctional facility as defined by departmental, division, or institutional regulation and approved by the secretary of the department, or the division director/designee.

(2) "Disposable income" funds in an inmate's trust account from any source, which are not frozen or debited by application of (LFO) legal financial obligations or disciplinary/administrative restitution mandates.

(3) "Division director" the director of community corrections or prisons or his/her designee(s).

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

((3)) (5) "Illegal items" are controlled substances as defined and listed in chapter 69.50 RCW or any weapon, firearm, or any instrument which, if used, could produce serious bodily injury to the person of another.

((4)) (6) "Indigent inmate" ((means)) an inmate who has less than a ((five)) ten-dollar balance of disposable income in his/her trust fund account on the day of the postage request and during the seven days preceding the postage request; except that:

(a) An inmate who has received at least twenty dollars cumulative from any source(s) shall not be considered indigent for thirty days following the accumulation of the twenty dollars unless the disposable income account balance is reduced to less than ten dollars by mandatory LFO, disciplinary sanction, or other mandatory administrative process; or

(b) An inmate who receives a lump sum of five hundred dollars or more from any source shall not be considered indigent for a period of six months from the date of receipt of the five hundred dollars unless the disposable income account balance is reduced to less than ten dollars by application of LFO obligations, a disciplinary sanction, or any legislative or administratively mandated requirements.

((5)) (7) "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)) (8) "Legal mail" is correspondence to or from courts and court staff (judges, clerks of the court, judicial law clerks, etc.), attorneys and persons working for attorneys and to established groups

involved in the representation of inmates in judicial proceedings (ACLU, legal services groups, etc.) (~~(,--and--government--officials--or agencies,--to--be--considered--"legal--mail"--the--correspondence--must clearly--be--marked--"legal--mail"--on--the--outside--of--the--envelope)~~). Legal mail may also be mail to or from any local, county, state, or national, or foreign governmental agency, executive or legislative body, and/or any person representing such agency or body in an official capacity.

Note: To be considered and therefore handled as "legal mail" the correspondence must be clearly marked "legal mail" on the outside front of the envelope.

~~((7))~~ (9) "Letters" (~~(consists of personal communications and enclosures to and from inmates including, but not limited to, handwritten or typed communications)~~) consist of handwritten/typed communications and/or written/pictorial enclosures to and from inmates. A standard first class, one ounce letter shall be consistent with the dimensions, weight, and thickness as prescribed by the United States Postal Service. A properly addressed and stamped post card or greeting card shall be processed with the same standards as described above for a first class one ounce letter. Nonstandard first class mail requires a surcharge as established by the United States Postal Service.

~~((8))~~ (10) "Mail" consists of letters, publications, or packages delivered by the United States Post Office or by other (~~(means)~~) established and authorized carriers.

~~((9))~~ (11) "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)~~) a wrapped or boxed object; a parcel or bundle containing one or more objects, a container in which something is packed for storage or transport or mailing.

~~((10))~~ (12) "Publications" consists of reproduced handwritten or typed/printed or pictorial materials including books, periodicals, newspapers, and pamphlets.

~~((11))~~ (13) "Return address" for an inmate this includes the full committed name, and may include any other legal name, DOC number, housing assignment, and the full name of the correctional facility from which the correspondence is mailed. For a free citizen this includes a reasonable return address as recognized by the United States Postal Service.

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

~~((12))~~ (15) "Superintendent" means the superintendent of a correctional facility or his/her designee(s).

AMENDATORY SECTION (Amending Order 83-09, filed 9/27/93)

WAC 137-48-030 INSPECTION OF MAIL. (1) All mail (~~(received by)~~) intended for or to be sent by an inmate, excluding legal mail discussed in subsection ~~((2))~~ (3) of this section, may be inspected at any time by the superintendent or his/her designee(s). Mail may be disapproved for receipt or transmittal in accordance with WAC 137-48-040.

(2) No person who inspects, or participates in the inspection, of an inmate's mail, shall disclose the contents except in the cause of his/her official duties.

~~((2))~~ (3) Mail (incoming or outgoing) which is clearly identified on the outside of the envelope as legal mail, as defined in WAC 137-48-020 ~~((13))~~, shall be inspected only in the presence of the

inmate. Legal mail shall not be read without a search warrant but may be visually scanned in the presence of the inmate to verify legal mail status.

~~((3))~~ (4) Mail containing illegal items or contraband shall be held and disposed of in accordance with the procedures set forth in chapter 137-36 WAC or as otherwise stated in this chapter.

AMENDATORY SECTION (Amending Order 86-06, filed 10/14/86)

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 is in a foreign language, its contents are not understood by the reader, and attempts to have the letter interpreted have been unsuccessful.

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

~~((i))~~ (j) The mail contains contraband.

~~((j))~~ (k) The mail contains obscene or sexually explicit materials as defined in department policy and/or division directives.

~~((k))~~ (l) Any mail or publication that is deemed to be a threat to legitimate penological objectives.

(m) The mail advocates that any ethnic, racial, or religious group is inferior for any reason and makes such group an object of ridicule and scorn, and it may reasonably be thought to precipitate a violent confrontation between the recipient and a member or members of the target group.

(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 without the permission of the superintendent. This provision may not be construed to preclude the purchase of noncontraband goods or payment for such goods which have been approved by the superintendent or his designee))~~.

(c) An individual or their guardian who previously has been sent obscene or threatening mail by the inmate has complained or has asked that such mail not be received.

(d) The mail solicits money or goods from a person or organization other than the immediate family of the inmate without the permission of the superintendent. The above provisions may not be construed to preclude the purchase of noncontraband goods or payment for such goods which have been approved by the superintendent or his/her designee.

(e) The outside of the mail (envelope or package) does not contain a return address as defined in WAC 137-48-020.

(3) No mail is to be restricted for the reason that it appeals to a particular ethnic, racial, or religious group, or that it contains

critical opinions of departmental policy or departmental employees, unless the mail is also judged to be a threat to legitimate penological objectives.

(4) 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)) division director. 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 or other purchasing outlet provided by the institution. 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)) any department of corrections operated reception center will not receive packages while assigned to the reception center.

AMENDATORY SECTION (Amending Order 83-09, filed 9/27/83)

WAC 137-48-050 PROCEDURES FOR RESTRICTIONS OF INCOMING AND/OR OUTGOING MAIL. (1) If an ((inmates's)) inmate's incoming or outgoing mail is restricted, ((notification-shall-be-provided-to-the-inmate-and-the-author-of-the-mail-in-writing-of-the-specific-publication,-letter,-or-package-which-has-been-censored-and-the-reason-for-this-action)) written notification will be provided to the inmate by the mailroom staff. This notification shall be provided to the inmate and the sender of the specific publication, letter, or package which has been restricted and the reason for this action. The notice shall contain notification to the inmate that the restriction becomes final within ten days of the initial notice. The superintendent or his/her designee shall review the restriction within the ten-day period of time and shall either uphold the restriction, or allow for the delivery of the mail.

(2) The inmate and ((author)) sender 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))), division of community corrections or prisons within ten calendar days.

(3) Upon receipt of an inmate's and/or ((author's)) sender's appeal, the director of community corrections or prisons or his/her designee shall affirm or reverse the action taken at the institution level and shall advise the inmate ((and/or--author)) and sender in writing of this action within ten working days from the receipt of the inmate's or ((author's)) sender'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 respective correctional division ((of--prisons)). A division-wide

notification shall be promptly issued from the office of the director when the decision is rendered.

(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 ~~((these))~~ procedures set forth in departmental, division, and facility regulations as authorized by chapter 137-36 WAC.

AMENDATORY SECTION (Amending Order 84-04, filed 3/26/84)

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/mail may be donated to charity or discarded.

(3) Indigent inmates shall be authorized to receive postage ~~((for a maximum of ten))~~ equivalent to the mailing cost of ten standard, one ounce, first class letters per week. This indigent postage provision shall cover both legal and/or regular ~~((correspondence-irrespective))~~ letters regardless of the number of letters identified as legal mail. ~~((This--shall-also-include-costs-advanced-by-the-institution-for-postage-due-mail--))~~

(4) Any expenditures made by the institution for postage ~~((for indigent--inmates))~~ due on incoming mail and/or indigent postage for letters, (as identified in subsection (3) of this section) may be recouped by the institution whenever such indigent inmate has ~~((a five))~~ ten dollars or more ((balance)) of disposable income in his/her trust fund account.

AMENDATORY SECTION (Amending Order 83-09, filed 9/27/83)

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))~~ mail, 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.

AMENDATORY SECTION (Amending Order 83-09, filed 9/27/83)

WAC 137-48-080 TELEPHONE USAGE. (1) Telephone facilities shall be provided in appropriate numbers and locations to permit reasonable and equitable access to all inmates, except inmates of the reception center and those inmates in disciplinary segregation.

(2) The superintendent shall promulgate written regulations providing for access of inmates to additional telephone facilities in emergency situations.

(3) The superintendent shall promulgate written regulations outlining the hours of telephone availability, maximum length of calls

(not less than five minutes) ((and-any)), limitations on telephone use, ((subject-to-approval-by-the-secretary)) and provisions for monitoring, recording, and operator-announced calls as provided for in RCW 9.73.145.