

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DEPARTMENT OF CORRECTIONS

(agency name)

Administrative Order No. 83-08

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

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

Adopt: WAC 137-36 - Inmate Personal Property
Repeal: WAC 275-87

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

This action is taken pursuant to Notice No. 83-17-136 filed with the code reviser on 8/24/83. These rules shall take effect:

- [X] 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, 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 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 72.09.050, 72.08.103, 72.13.080, 72.15.040

(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 September 27, 19 83

STATE OF WASHINGTON FILED

SEP 27 1983

By Amos E. Reed, Deputy Secretary

Amos E. Reed, Secretary Title

CODE REVISER'S OFFICE WSR 83-20-035

## Chapter 137-36 WAC

## ADULT CORRECTIONAL INSTITUTIONS--INMATE PERSONAL PROPERTY

NEW SECTION

WAC 137-36-010 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 retention of personal property by inmates to prevent the possession of illegal items and contraband within the institution.

NEW SECTION

WAC 137-36-020 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 possession, as defined in regulations adopted by the superintendent of an institution and approved by the secretary.

(2) "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.

(3) "Inmate" shall refer to those persons committed to the custody of the department of corrections and inmates transferred from other states or the federal government.

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

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

(6) "Unclaimed" means that no owner of the property has been identified or has requested, in writing, the release of the property to themselves nor has the owner of the property designated an individual to receive the property or paid the required postage to effect delivery of the property.

NEW SECTION

WAC 137-36-030 AUTHORIZED ITEMS. (1) Only authorized items may be retained by an inmate in the custody of the department. All authorized items shall be retained at the owner's risk. The state of Washington shall not be liable for any loss or damage.

(2) Authorized items may be limited in quantity and value when necessary to provide accountability, contraband control, safety or sanitary conditions, storage space, inmate morale or to meet the unique needs of each institution.

(3) Each superintendent shall establish regulations setting forth specific authorized items and levels of personal property for those inmates confined to that institution. Specific personal property authorizations may be suspended to ensure the safety, medical or mental health treatment objectives of any inmate or the general population and to ensure proper maintenance of order and security of the institution.

(4) All authorized items in excess or in noncompliance with the levels established by the superintendent of each institution shall be considered contraband and shall be disposed of as provided in WAC 137-36-040.

NEW SECTION

WAC 137-36-040 DISPOSITION OF PERSONAL PROPERTY. (1) Contraband items will be confiscated by the superintendent and disposed of in the following manner:

(a) Items which are determined to be owned by an inmate will be mailed or transferred to a person designated by the inmate at the inmate's expense. If the inmate is without funds, refuses to pay the required postage or refuses to designate an individual to receive the property, such items shall be donated to a charitable organization.

(b) Items for which ownership cannot be determined shall be held by the superintendent for six months and then donated to a charitable organization or destroyed.

(c) Money such as currency, personal checks, and money orders, is contraband within adult correctional institutions. If money or other negotiable instrument is found in the unauthorized possession of an inmate and he/she claims or disclaims ownership or, if ownership is unknown, the money or negotiable instrument shall be confiscated immediately and shall be deposited in the inmate welfare fund at the expiration of any appeal or hearing.

The inmate shall be advised in writing of his/her right to seek review of the decision to place the money in the inmate welfare fund. 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.

(2) All illegal items owned by and/or found in the possession of an inmate shall be confiscated. Such items shall be held for evidence for law enforcement authorities. Such illegal items that do not need to be retained as evidence shall be destroyed.

(3) Abandoned personal property shall be disposed of in the following manner:

(a) All personal property, and any income or increment which is accrued thereon, held for the owner by an institution that has remained unclaimed for more than six months from the date the owner was terminated from work release, transferred to a different institution, or when the owner is unknown or deceased, from the date the property was placed in the custody of the institution, is presumed abandoned. When an inmate who has no recorded next of kin or person to whom unclaimed property can be sent, is transferred to another institution, the property shall not be presumed abandoned for a period of twelve months.

(b) All personal property, and any income or increment which has accrued thereon, shall be presumed abandoned whenever the inmate owner has been placed on escape status. Such property shall be held for three months from the date of the escape. If during that period the inmate remains on escape status and/or no other person claims ownership of the property, the property shall be deemed abandoned and may be donated to charity or destroyed in accordance with the provisions of this regulation.

(c) All personal property, other than money, which is unclaimed for the time periods set out in this regulation, shall be presumed abandoned and may be destroyed. Where a superintendent feels the property may be used or has value to a charitable nonprofit organization, the property may be donated to such an organization.

(d) Any money unclaimed for the time limits set out in this regulation shall be presumed abandoned and paid into the revolving fund established pursuant to RCW 9.95.360.

(e) At least thirty days prior to personal property being donated or destroyed, written notice shall be given to the owner at the owner's residence or place of business or to some person of suitable age or discretion residing or employed therein. Such notice may be hand delivered or sent by certified mail. If the owner is deceased, such notice shall be sent to at least one of the owner's heirs, if known. In all other circumstances, notice shall be sent to the person previously designated by the owner as authorized to receive property.

(f) If none of the above alternatives is available, notice of the proposed donation or destruction of the property shall be published at

least once in an official newspaper in the county in which the institution is located at least thirty days prior to the date fixed for the action. The notice shall be signed by the secretary and shall contain a general description of the unclaimed personal property, specifying the institution at which the property is held.

#### NEW SECTION

WAC 137-36-050 INVENTORY OF PERSONAL PROPERTY. All personal property, whether confiscated, in the possession of the inmates or maintained by the institution shall be inventoried on forms established and approved by the secretary.

A continuous log will be maintained at each holding area designated for inmate personal property. The log shall identify the property contained therein as well as the custodial personnel who have access to the personal property area.

#### NEW SECTION

WAC 137-36-060 RETURN OF PERSONAL PROPERTY. Upon formal release from the institution, all personal property in the custody of the superintendent shall be returned to the inmate. If the inmate believes that property of value belonging to him/her has been lost or damaged due to staff negligence, he/she may file a claim pursuant to RCW 4.92.100.

#### NEW SECTION

WAC 137-36-070 IMPLEMENTATION. The secretary may adopt rules and regulations implementing this chapter.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- (1) WAC 275-87-005 CONTRABAND--DEFINITIONS.
- (2) WAC 275-87-010 CONFISCATION.
- (3) WAC 275-87-015 DISPOSITION OF ILLEGAL ITEMS.
- (4) WAC 275-87-020 DISPOSITION OF OTHER ITEMS.
- (5) WAC 275-87-025 RECORDS.