

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DEPARTMENT OF CORRECTIONS

(agency name)

Administrative Order No. 84-06

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

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

Amend: WAC 137-70, Reimbursement For Criminal Justice Costs and Contingency Plan Expenses.

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

This action is taken pursuant to Notice No. 84-08-060 filed with the code reviser on April 3, 1984. 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.
[X] (b) This rule is promulgated pursuant to RCW 72.72.040 which directs that the

DEPARTMENT OF CORRECTIONS

(agency)

has authority to implement the provisions of

Chapter 72.72 RCW

(name of act or RCW citation)

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

(agency)

as authorized in RCW

(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 May 14, 19 84

FILED

By Amos E. Reed

Amos E. Reed, Secretary

Title

MAY 14 1984

CODE REVISER'S OFFICE

WSR 84-11-033

Chapter 137-70 WAC

((CRIMINAL-JUSTICE)) REIMBURSEMENT ((--ADULTS)) FOR CRIMINAL JUSTICE COSTS AND CONTINGENCY PLAN EXPENSES

WAC

137-70-010	Purpose.
137-70-020	Definitions.
137-70-030	Eligibility.
137-70-040	Reimbursable impacts/rates-- <u>Criminal justice costs.</u>
137-70-050	Limitation of funds-- <u>Criminal justice costs.</u>
137-70-055	Reimbursable impacts--Contingency plan expenses.
137-70-057	Funds--Contingency plan expenses.
137-70-060	Billing procedure.
137-70-070	Department review committee.
137-70-080	Implied consent to audit.

AMENDATORY SECTION (Amending Order 82-10, filed 8/16/82)

WAC 137-70-010 PURPOSE. Chapter 72.72 RCW ~~((created))~~ creates an institutional impact account, in the general fund, for the purpose of reimbursing political subdivisions for criminal justice costs ~~((incurred))~~ they incur directly as a result of crimes committed by adult offenders residing in correctional institutions, and for expenses they incur directly as a result of their providing personnel and material pursuant to a contingency plan. The purpose of these rules is to implement that statute and to set forth the procedures under which these funds will be distributed ~~((for-impacts-relating-to adult-offenders))~~.

AMENDATORY SECTION (Amending Order 82-10, filed 8/16/82)

WAC 137-70-020 DEFINITIONS. As used in this chapter, the following ~~((items))~~ words shall have the following meanings:

(1) "Secretary" shall mean the secretary of the department of corrections.

(2) "Contingency plan" shall mean a plan developed under RCW 72.02.150 by the secretary, or the secretary's designee, with representatives of political subdivisions for dealing with disturbances at a state penal facility.

(3) "Department" shall mean the department of corrections.

~~((3))~~ (4) "Inmate" shall mean an individual~~((s))~~ sentenced to the custody of the department under state law and ~~((inmates))~~ an individual transferred to the custody of the department from ~~((other))~~ another state~~((s))~~ or the federal government.

~~((4))~~ (5) "Institution" and "penal facility" shall mean ~~((all these--facilities--set--forth))~~ any facility identified in RCW 72.01.050 (2) and ~~((all))~~ any community residential program~~((s))~~ under the department's jurisdiction operated pursuant to chapter 72.65 RCW.

~~((5))~~ (6) "Political subdivision" shall mean any city, town, or county ~~((or-other-unit-of-local-government))~~.

~~((6))~~ (7) All references to the singular shall include the plural unless noted otherwise.

AMENDATORY SECTION (Amending Order 82-10, filed 8/16/82)

WAC 137-70-030 ELIGIBILITY. (1) Reimbursement for criminal justice costs shall be available to any political subdivision which ~~((is impacted--by--any--adult--correctional--facility--as--defined--in--RCW 72.04.050(2)--or--a--community--residential--program--as--defined--and--operated--pursuant--to--chapter--72.65--RCW.--As--used--herein,--impacted--shall mean--that--the--political--subdivision--incurred))~~ incurs an incremental cost, reimbursable under this chapter, which ~~((was))~~ is specifically and exclusively attributable to the criminal behavior of ~~((state institutional))~~ an inmate~~((s))~~ incarcerated in or who ~~((have))~~ has escaped from an institution. ~~((Reimbursement--is--available))~~ For the purposes of this chapter parolees or probationers are deemed to be inmates only if they are assigned to an institution ~~((as--defined herein:--PROVIDED,--That))~~. Reimbursement shall be ~~((limited))~~ made only with respect to new crimes and shall not be ~~((available))~~ made for violations of the conditions of parole or probation and the resulting revocation hearings.

(2) Reimbursement for contingency plan expenses, including costs incurred under chapter 41.26 RCW, if such costs are the direct result of physical injury sustained in the implementation of a contingency plan, shall be available to any political subdivision which incurs such expense in providing personnel and/or material, when requested by the secretary or the secretary's designee, to carry out the provisions of a duly adopted contingency plan. Provided, however, reimbursement for costs incurred under chapter 41.26 RCW will not be made:

(a) Unless the physical injury occurs within the walls or other perimeter of the secured area, if the secretary identifies in the contingency plan the prison walls or other perimeter of the secured area; or

(b) Unless the physical injury results from providing assistance requested by the secretary or the secretary's designee which is beyond the description of the assistance contained in the contingency plan, if the secretary does not identify the prison walls or other perimeter of the secured area; or

(c) If the physical injury results from conduct which either is not requested by the secretary or the secretary's designee, or is in violation of orders by superiors of the local law enforcement agency.

AMENDATORY SECTION (Amending Order 83-13, filed 12/6/83)

WAC 137-70-040 REIMBURSABLE IMPACTS/RATES--CRIMINAL JUSTICE COSTS. (1) Reimbursement shall be restricted to fully documented law enforcement, prosecutorial, judicial and jail facility costs, as defined herein, at the actual costs of the submitting jurisdiction, not to exceed the following rates:

(a) Law enforcement costs are costs incurred by any political subdivision in apprehending escapees, in investigating crimes committed by state institutional inmates including pretrial investigations within or outside the institution, or in providing security for inmates outside the jail facility. These costs are reimbursable at the following rates:

(i) \$17.48 per hour for the period July 1, 1983, through June 30, 1984.

(ii) \$18.39 per hour for the period July 1, 1984, through June 30, 1985.

(b) If an escape or investigation results in the filing of a criminal complaint, the impacted political subdivision shall be entitled to attorney costs associated with the prosecution and/or defense of the filed action. These costs are reimbursable at the following maximum rates:

(i) \$41.79 per hour from July 1, 1983, through June 30, 1984.

(ii) \$43.96 per hour from July 1, 1984, through June 30, 1985.

(c) Reimbursement for judicial costs incurred as a result of the filing of a criminal complaint shall be limited to judges, court reporters, transcript typing or preparation, witness fees and jury fees. These costs are reimbursable at the following maximum rates:

(i) Judges - \$38.95 per hour from July 1, 1983, through June 30, 1984, and \$40.98 per hour for the period July 1, 1984, through June 30, 1985. These costs shall include the services of court clerks and bailiffs.

(ii) Court reporters - \$17.52 per hour from July 1, 1983, through June 30, 1984, and \$18.43 per hour for the period July 1, 1984, through June 30, 1985.

(iii) Transcript typing services - \$3.49 per page from July 1, 1983, through June 30, 1984, and \$3.67 per page for the period July 1, 1984, through June 30, 1985.

(iv) Expert witnesses - \$58.65 per hour from July 1, 1983, through June 30, 1984, and \$61.70 per hour for the period July 1, 1984, through June 30, 1985.

(v) Witness fees/nonexpert - jury fees - reimbursable at the rate established by the local governmental legislative authority up to a maximum of \$26.33 per day for the period July 1, 1983, through June 30, 1984, and \$27.70 for the period July 1, 1984, through June 30, 1985.

(d) Jail facility costs resulting from the escape or criminal complaint shall be reimbursed at the following maximum rate: \$7.37 per inmate day from July 1, 1983, through June 30, 1984 and \$7.75 for the period July 1, 1984, through June 30, 1985.

(e) Coroner - Where an inmate dies as a result of criminal activity of another inmate, coroner costs incurred by a local jurisdiction may be reimbursed up to a maximum amount established by the committee as reasonable.

(f) Medical costs - Where an inmate is in the custody of a local jurisdiction as a result of a crime committed while incarcerated in a state institution, extraordinary medical costs, beyond the routine medical services of the jail, may be reimbursed at the discretion of the committee. Counties, cities, and towns shall notify the department prior to incurring expenses for extraordinary medical expenses, where practicable, to allow the department an opportunity to provide the necessary medical care directly.

AMENDATORY SECTION (Amending Order 82-10, filed 8/16/82)

WAC 137-70-050 LIMITATION OF FUNDS--CRIMINAL JUSTICE COSTS. Claims for reimbursement under WAC 137-70-040 shall be paid in the order they are received until the legislative appropriation for the biennium is fully expended. If the impact fund is fully expended before the end of the biennium, political subdivisions should continue to submit claims for the purpose of developing future impact account funding requests.

NEW SECTION

WAC 137-70-055 REIMBURSABLE IMPACTS--CONTINGENCY PLAN EXPENSES. Reimbursement shall be restricted to applicants eligible under WAC 137-70-030(2) for fully documented expenses incurred directly as a result of their providing personnel and/or material pursuant to a contingency plan.

NEW SECTION

WAC 137-70-057 FUNDS--CONTINGENCY PLAN EXPENSES. Reimbursement under WAC 137-70-055 shall be made solely from the institutional impact account from funds available in that account. If full reimbursement would exceed available funds, the secretary will request the legislature to appropriate sufficient funds to enable the secretary to make full reimbursement, and if so appropriated, the secretary will make such reimbursement.

AMENDATORY SECTION (Amending Order 82-10, filed 8/16/32)

WAC 137-70-060 BILLING PROCEDURE. (1) All requests for reimbursement under this chapter must be submitted on a standard Washington State Invoice Voucher Form, A-19, in triplicate, signed by the political subdivisions responsible fiscal officer, to the Department of Corrections, Division of Management and Budget, Office of Contracts and Regulations, P.O. Box 9699, FN-61, Olympia, Washington 98504.

(2) All ((A-19)) requests for criminal justice cost reimbursement must be accompanied by a narrative explanation of all costs incurred. This narrative must include at least the following information:

- (a) Full name and DOC identification number of inmate;
- (b) Institution to which the inmate is assigned or ((where)) from which he/she escaped;
- (c) Incident requiring the political subdivision's assistance, i.e. escape, investigation and dates;
- (d) Costs incurred broken down into the categories of reimbursable costs allowed in WAC 137-70-040 and hourly rate used;
- (e) Admission and release dates if applicable;
- (f) Other supporting information or documentation.

(3) All requests for contingency plan expense reimbursement must be accompanied by a narrative explanation of all expenses incurred. This narrative must include at least the following information:

(a) Names and titles of personnel providing assistance during a disturbance covered by a contingency plan, the dates and hours served in such capacity by such personnel, and their salaries or rates of pay;

(b) If the claim is for reimbursement of costs incurred under chapter 41.26 RCW, a description of the nature of the physical injury sustained and a description of the location where and the circumstances under which it was sustained;

(c) With respect to material provided in carrying out a contingency plan, (i) its acquisition cost, if acquired solely for use in carrying out the contingency plan and no other purpose; (ii) its market value both before and after the disturbance for which it was provided, if it suffered damage beyond normal wear and tear during the disturbance; and (iii) its market value at the time of its loss or destruction, if lost or destroyed during the disturbance for which it was provided;

(d) A description of other expenses, incurred in carrying out the contingency plan;

(e) Such other documentation and information necessary to support the claim.

AMENDATORY SECTION (Amending Order 82-10, filed 8/16/82)

WAC 137-70-070 DEPARTMENT REVIEW COMMITTEE. (1) All requests for reimbursement shall be reviewed by a department committee composed of the following individuals or their designees:

- (a) ~~((The))~~ Deputy secretary;
- (b) Director, division of management and budget;
- (c) Director, division of prisons;
- (d) Contracts and regulations administrator;
- (e) Capital programs administrator; and the
- (f) Senior assistant attorney general assigned to the department.

(2) The review committee shall approve or disapprove the requests for payment. If a request is disapproved in total or in part, the committee shall send a letter to the requesting political subdivision with the reasons for disapproval.

(3) The committee decision shall be final unless appealed to the secretary within twenty days after a political subdivision receives notice of disapproval.

AMENDATORY SECTION (Amending Order 82-10, filed 8/16/82)

WAC 137-70-080 IMPLIED CONSENT TO AUDIT. ~~((1))~~ By submitting requests for reimbursement, the requesting political subdivision agrees to:

(1) Maintain records which would support the request made for a period five years after the date of such request~~((:))~~; and

(2) ~~((If requested by the secretary, or his/her designee, the political subdivision shall))~~ Make ~~((these))~~ such records available for review and/or audit by the department if requested by the secretary or the secretary's designee.