COA # 476690-II

Cause No. 90616-5
Thurston County
Cause No. 14-2-00626-5

IN THE WASHINGTON STATE SUPREME COURT

JAMES BARSTAD,

Appellant,

Vs.

WASHINGTON STATE DEPARTMENT OF CORRECTIONS,

Respondent.

APPELLANT'S OPENING BRIEF

JAMES BARSTAD [#759730]
C/O MONROE CORRECTIONAL COMPLEX
P.O. BOX 777, WSRU-B123
Monroe, Washington [98272]

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I. INTRODUCTION:

1.1) This is an appeal of a Public Records Act (PRA) case in Thurston County.

II. ASSIGNMENTS OF ERROR:

2.1) THURSTON COUNTY GRANTED SUMMARY JUDGMENT TO RESPONDENTS AND IN DOING SO HAS ALLOWED THEM TO CIRCUMVENT THE PRA WITH IMPUNITY.

2.1.a) Respondents failed to provide public records sought.

2.1.b) Respondents admit a criminal act, showing bad faith.

2.1.c) Caselaw cited for court opinion were not applicable to the present case, as the issue was not yet "ripe" for final adjudication.

2.1.d) Damages are required under the PRA.

III. STATEMENT OF THE CASE:

3.1) Appellant brought action in Thurston County Superior Court under the PRA for non-production of public records (Cause No. 14-2-00626-5). Judge Erik D. Price granted Respondents summary judgment on August 01, 2014, citing two Division Two Court of Appeals decisions as stare decisis. Appellant is appealing this summary judgment.

IV. ARGUMENT:

4.A.1) THE PUBLIC RECORDS ACT (PRA) MANDATES DISCLOSURE OF PUBLIC RECORDS, AND RESPONDENTS FAILED TO DISCLOSE THE RECORDS.

Revised Code of Washington (RCW) 42.56.030 provides:

> The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created.

> This chapter shall be liberally construed to promote this public policy and assure that the public interest will be fully protected. **In the event of a conflict between the provisions of this chapter and any other act, this chapter shall govern.**

Revised Code of Washington (RCW) 42.56.030 (Bold emphasis and underline added).

4.A.2) The court's primary duty in interpreting a statute is to "determine the legislature's intent." State v. Jacobs, 154 Wn.2d 595, 600, 115 P.3d 281 (2005). If the statute's meaning is clear, then "the court must give effect to that plain meaning as an expression of legislative intent." Id. "The 'plain meaning' of a statutory provision is to be discerned from the language of the statute in which the provision is found, **relative provisions, and the statutory scheme as a whole.**" Id. (Emphasis added). "If the statute is unambiguous, meaning it is subject to only one reasonable interpretation," the court's inquiry ends. State v. K.L.B., 180 Wn.2d 735, 328 P.3d 886 (2014), at [2]. It is unambiguous. The Legislature intended RCW 42.56 et.seq. to supercede the retention schedule act of RCW 40.14.

4.A.3) "The PRA begins with a mandate of full disclosure of public records, and that mandate is limited only by the precise, specific, and limited exceptions the Act describes." Progressive Animal Welfare Soc'y v. University of Washington, 125 Wn.2d 89, 102, 117 P.3d 1117 (2005).

4.A.4) "Public Records Act (PRA) requires every

government agency to disclose any public record upon request, unless an enumerated exemption aplies." RCWA 42.56.070 (1), Sanders v. State, 169 Wn.2d 827, 836, 240 P.3d 120 (2010). Appellant contends the enumerated exemptions do not apply to the record he sought, as it is defined as:

> (c) Administrative staff manuals and **instructions to staff that affect a member of the public.**
>
> ...
>
> (f) **Correspondence,** and materials referred to therein, **by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency,** whereby the agency determines or opines upon, or is asked to determine or opine upon, **the rights of** the state, **the public,** a subdivision of state government or **of any private party.**

RCW 42.56.070 (1) (Emphasis added) (cited in West v. Washington Department of Natural Resources, 163 Wn.App. 235, 258 P.3d 78 (2011).

4.A.5) Judicial review of an agency's compliance with the PRA is de novo." Soter v. Cowles Pub'g Co., 162 Wn.2d 716, 731, 174 P.3d 60 (2007). "The [PRA] is a strongly worded mandate for broad disclosure of public records." Hearst Corp. v. Hoppe, 90 Wn.2d 123, 127, 580 P.2d 246 (1978). "We liberally construe the PRA in favor of disclosure and narrowly construe its exemptions." RCW 42.56.030. "The burden of proof is upon the agency to establish that a specific exemption applies." Daines v. Spokane County, 111 Wn.App. 342, 346, 44 P.3d 909 (2002).

4.B.1) RESPONDENTS ADMIT A CRIMINAL ACT IN DENYING THE

RECORDS, SHOWING BAD FAITH.

4.B.2) Respondents argue that the public record sought was exempt from disclosure, due to it being "transitory." However, they also concede that the retention schedule of RCW 40.14 was violated, and "subject to criminal prosecution." (Def's Response to Plnt's Motion for Summary Judgment..., pg. 3, ll. 22-23, Clerk's Designation, page 38). Their ultimate argument is that they be allowed to circumvent the PRA by violating RCW 40.14, and should not be held accountable for this action through the penalties mandated by the PRA.

4.C.1) THE ISSUE IN THE PRESENT CASE IS "RIPE" FOR FINAL ADJUDICATION, CASELAW CITED IN SUPERIOR COURT DECISION IS IN ERROR.

4.C.2) Thurston County Superior Court Judge Erik D. Price cited two Division Two cases as stare decisis in this matter. "[A]n agency has no duty to create or produce a record that is nonexistent." Building Industry Association of Washington v. McCarthy, 152 Wn.App. 720, at 734, 218 P.3d 196 (2009) (hereinafter BIAW), and, "[T]he PRA does not authorize indiscriminate sifting through an agency's files by citizens searching for records that have been demonstrated not to exist." BIAW, supra, at 734-35, 218 P.3d 196 (quoting Sperr v. City of Spokane, 123 Wn.App. 132, 137, 96 P.3d 1012 (2004) (Emphasis omitted). Similar argument states, "[T]here was no agency action to review under the

Act 'where the agency' did not deny the requestor an opportunity to inspect or copy a public record, because the record sought 'did not exist.'" BIAW, supra, at 740, 218 P.3d 196 (quoting Sperr, 123 Wn.App. at 137, 96 P.3d 1012).

4.C.3) In West v. Washington DNR, supra, West argued that the DNR had lost his e-mail one year before he made his [PRA] request. He further argued that the courts should apply RCW 40.14 [Retention Schedule Act] for the proposition that unless the courts apply this statute, agencies will circumvent the PRA and improperly destroy records. See BIAW, 152 Wn.App. at 741, 218 P.3d 196 ("despite this argument's compelling logic, no improper destruction has been shown"). At that time, the issue was unripe. West's prediction in that case has come true in the present case. Therefore, this Court must resolve this important issue. Agencies are not allowed to decide what records (information) are to be released to the members of the public.

4.C.4) In the present case, Appellant sought a document entitled "Disciplinary Sanction List," dated October 27, 2012. (See **APPENDIX "A"**, herein). This was not an "indiscriminate sifting" of the Respondents' files. The record sought directly related to the constitutional due process rights of the Appellant, as well as other inmates at the Monroe Correctional Complex (MCC), specifically the Washington State Reformatory (WSR).

4.C.5) Further, this was not an e-mail one year prior to the record request, as in West. Appellant sought this record six months after the date of the record's creation, to present it as an Exhibit in a current §1983 federal case as evidence of constitutional right deprivations. The record sought contains the DOC Letterhead, names and photos of inmates serving a sanction on that date. More importantly, it shows the sanction being imposed. Therefore, the record sought fits all definitions of a "public record" pursuant to both RCW 42.56 and RCW 40.14. The Retention Schedule mandates that this record be kept for two years Prior to destruction (See **APPENDIX "B"**, herein).

4.C.6) In the "[Respondents'] Answer to Statement of Grounds for Review," it is posited that the record sought was destroyed properly, since it was merely "created by copying information from documents that are retained by the agency." (page 4). Why then, weren't those "primary" records provided as responsive to the Records Request in the first place? The fact that you are retaining primary records (information) is not an excuse to deny releasing said records (information). There is a shell game going on here. The specific record sought shows a sanction, imposed prior to any hearing. Corrections Program Manager (CPM) Michele Wood admits that the sanction imposed was improper (See **APPENDIX "C"**, herein). The records provided in PDU-24877

only show a hearing reference number, and do not state the nature of the sanction. After analyzing this data, all one can infer is the (possible) start date of any sanction. The DOC is "cutting and pasting" information from documents arbitrarily. The so-called "primary infraction and **hearing records**" obviously do not show the hearing and/or results of said hearing, which would have "allowed" them to impose the sanction in the first place. There is only the "Evidence Number," 3797W (See **APPENDIX "D"**, herein).

4.C.7) RCW 40.14.060 provides:

> 40.14.060 - Destruction, disposition of official public records or office files and memoranda -- Records Retention Schedule.
>
> (1) Any destruction of official public records shall be pursuant to a schedule approved under RCW 40.14.050. **Official public records shall not be destroyed** unless:
>
> (b) The department of origin has made a satisfactory showing to the state records committee that the retention of the records for a minimum of six years **is both unnecessary and economical**, particularly if lesser federal retention periods for records generated by the state under federal programs have been established, **or**,
>
> (c) The originals of official public records less than six years have been copied or reproduced by any other photographic or other process approved by the state archivist which **accurately reproduces** or forms a durable medium for so reproducing the original.
>
> (2) Any lesser term of retention than six years must have the approval of the director of financial management, the state auditor and the attorney general, except when records have federal retention guidelines the state records committee may adjust the retention period accordingly.
>
> An automatic reduction of retention periods from seven to six years for official public records on record retention schedules existing on June 10, 1982, shall

> not be made, but the same shall be reviewed individually by the state records committee for approval or disapproval of the change to a retention period of six years.
>
> Recommendations for the destruction or disposition of office files and memoranda shall be submitted to the records committee upon approval forms prepared by the records officer of the agency concerned and the archivist. The committee shall determine the period of time that <u>any office file or memorandum</u> shall be preserved and may authorize the division of archives and record management to arrange for its destruction or disposition.

RCW 40.14.060 (Emphasis added).

4.C.8) Appellant contends that subsection (b) has already occurred, and that the specific record sought was determined to be retained for two years prior to destruction. (See **APPENDIX "B"**, herein). Pages 31, 35, and 36 all refer to the specific record sought, and they are mandated for retention of at least two years. While RCW 40.14.060 cites an "unnecessary and uneconomical" reason for <u>not</u> retaining the records, Respondents make a hollow argument for its destruction. The daily Disciplinary Sanction list was "destroyed and an updated memorandum was made each day." (Answer to Grounds for Review, page 1). They are printing paper, incurring unnecessary costs (therefore uneconomical), but could easily scan the documents onto electronic storage devices. Since they are <u>created</u> on a computer, why not just hit "save?" They could then obey the retention schedule already in place and avoid committing a

criminal act. Further telling is the fact that the DOC Public Records Division has stated, "WSRU does not retain these reports like SOU & TRU." Obviously, one can infer that WSR is operating in a manner that is irregular in reference to the retention of these records. (See **APPENDIX "E"**, herein).

4.C.9) Further, since subsection (b) has been chosen and implemented, the Respondents cannot now state that they wish to choose subsection (c). The two subsections are separated by the word "or" and not separated by the word "and." Therefore, the legislature did not intend for BOTH subsections to be implemented.

4.C.10) From Gray v. Suttell & Associates, 334 P.3d 14 (Wash. 2014), the court held, "The use of a comma and the disjunctive "or" to separate "soliciting claims for collection" and "collecting or attempting to collect claims owed or due or asserted to be owed or due another person" strongly suggests that there are two types of collections agencies." See HJS Dev., Inc. v. Pierece County ex rel. Dep't of Planning & Land Servs., 148 Wash.2d 451, 473 n.94, 61 P.3d 1141 (2003), accord Riofta v. State, 134 Wn.App. 669, 682, 142 P.3d 193 (2006) ("or" is disjunctive unless there is a clear legislative intent to the contrary). In addition, the absence of a comma before the qualifying phrase "owed or due or asserted to be owed or due another

person" indicates that the phrase refers only to the second type of collection agency. Bunker, 169 Wash.2d at 578, 238P.3d 487 under the last antecedent rule, a qualifying phrase refers to the last antecedent but a comma before the qualifying phrasde indicates that the phrase applies to all antecedents.

4.C.11) Accordingly, a reasonable reading of the statute is that it defines two types/options for record destruction/disposal approval. There is no clear legislative intent to the contrary. In fact, if we accept Respondents' argument that "records with minimal retention value" can "be destroyed when no longer needed" (See Respondents' Answer to Grounds for Review, page 4), then the provision of RCW 40.14.060 (2) is redundant, as there would not exist any need to obtain pre-approval of the director of financial management, the state auditor, or the attorney general. Appellant must argue at this point that the record destroyed was not "minimal retention value," as it has been determined by the retention scheaule to be retained for at least two years.

4.C.12) Suppose for a minute that there are allegations of widespread inmate abuse, and/or an investigation into the murder of an officer. A member of the public, or another agency, might want to investigate the Respondents' records. Respondents could be hiding the fact of wrongdoing by

circumventing the PRA. Suppoe the sanction was "removal of right index finger," and the sentence imposed at the time of the infraction, prior to any hearing. Only the specific record sought would have shown this information. All other records disclosed in this matter are incomplete and suspect. Suppose that certain officers reported that they recently confirmed the well-being of the murdered officer. The records will reflect this, but the fact of the matter is that the records are wrong.

4.C.13) The fact of the matter is that WSR's standard operating procedure is to "pick and choose" what statutes, DOC Policies, and morals to follow. Anybody who would visit for a couple weeks can easily confirm this to their satisfaction. The Greivance Program Officer has even stated to the Appellant that "Policies are merely guidelines." What? And now the WSR wants to apply this "pick and choose" attitude the the PRA. They want this Court to confirm their stance is the legilature's intent, that an agency can decide what information to disclose to the people. This slippery slope is a complete contradiction to the PRA's intent and purpose.

4.C.14) The latest national protest is that "Black Lives Matter." I must propse that "Prison Lives Matter," as well. Prisoners do nto leave all of their constitutional rights at the prison gate. One of those rights is due process, which

was denied the Appellant. Respondents wish to hide the fact that they denied that right. They also wish to deny the public their right to transparency in government/agency administration/operations. They want to continue destroying public records prior to the retention scheduel and continue to non-dislose. They want to continue this admitted criminal act without being penalized.

4.C.15) Respondents sent one CD-ROM responsive to Appellant's request, PDU-24877. However, the specific record sought was absent, along with any records related to the Appellant. Appellant made a second request. A second CD-ROM was sent to the Appellant. When that second CD arrived at MCC, Respondents lost/misplaced the CD-ROM. Appellant then requested a copy of that Second Installment CD-ROM. When that CD arrived at MCC, the Mailroom rejected the mailing, stating the "CD contains other offenders' information." They deem this to be a threat to the safety and security of the institution, citing DOC Policy 450.100 (Mail for Offenders) and, implicitly, Livingston v. Cedeno, 164 Wn.2d 46, 186 P.3d 1055 (2008). However, the first CD-ROM also contained "other offenders' information," and was allowed in without incident, showing arbitrary implementation of the Policy.

4.C.16) At no time did Respondents file to enjoin the Appellant, pursuant to RCW 52.56.565(2), or provide proof of claim of any reasonable threat from the Appellant possessing

the names and DOC numbers of inmates who had a sanction in the prior year. Respondents post "other offenders'" names and DOC numbers on was of every state prison, daily, showing where said offenders are expected to be physically, at specific places within the prison at specific times of the day following (Daily Call-Out System). Obviously, this rises to a much greater risk to safety and security than who had a sanction in the past. This is further proof of the arbitrary and capricious application of DOC 450.100.

4.C.17) Appellant sent the CD-ROM to a third party in Texas, who has confirmed the absence of the record sought, as well as any other information confirming the nature of the imposed sanction (See APPENDIX "E", herein). The CD was sent to the Thurston County Superior Court for in camera review. The court declined review at that time. The CD-ROM is still available for review and will be sent from Texas, upon request to the Appellant. The record sought was never offered for inspection and/or copying. Further, the "primary" documents cited by Respondents were also not sent for copying/inspection, and they do not contain any proof of any hearing being held prior to imposition of the sanction.

4.D.1) DAMAGES ARE REQUIRED UNDER THE PRA.

4.D.2) RCW 42.56.100 - Protection of public records -Public Access, states:

> "If a public request is made at a time when such record exists but is scheduled for destruction in the near future, the agency ... shall retain possession of the

> record, and may not destroy or erase the record until the request is resolved."

RCW 42.56.100. The record sought was not due to be destroyed for another eighteen months after the request was made. The violatino of RCW 40.14 Retention Schedule Act resulted in the violation of RCW 42.56.100, and thus circumvented the PRA. Again, RCW 42.56.030 states, "In the event of a conflict ... this chapter shall govern." Obviously, this states the legislative intent to incorporate the retention schedule of RCW 40.14 into RCW 42.56, the PRA. The stare decisis cases cited by Thurston County Superior Court are in error, as the specific issue was not ripe at that time. The issue is now ripe for a final adjudication, for all three appellate divisions. West's prediction has come to fruition. 4.D.3) "A party prevails under this statute [PRA] 'if the records should have been disclosed on request.'" Spokane Research & Defense Fund vs. City of Spokane, 255 Wn.2d 89, 102, 117 P.3d 1117 (2005), and "Penalties for late disclosure are mandatory," Id., at [*16]. Further, "the amount of attorney fees and any penalty to be awarded to a prevailing party under RCW 42.56.550(4) is within the discretion of the Superior Court." Neighborhood Alliance of Spokane County vs. County of Spokane, 172 Wn.2d at 728, 261 P.3d 119 (2011). The record sough should have been disclosed. The information on that record is not contained

in the "primary records" citedc by Respondents. The retention schedule for tnis records was violated, an admitted criminal act.

4.D.4) However, Appellant is serving a sentence in prison. Therefore, RCW 42.56.565(1), provides:

> "(1) Court shall not award penalties under RCW 42.56.550(4) to a person who is serving a criminal sentence ... unless the counrt finds trhe agency acted in bad faith in denying the opportunity to inspect or copy the record."

RCW 42.56.565. Appellant is at a disadvantage, ao intion, in any PRA action. It is well-known among prisoners that this statute was made specifically for the Respondents. Historically, inmates had garnered multiple, large penalties from the Respondents. Therefore, it is prima facie evidence of bad faith from the beginning. It seems the "pick and choose" standard operating proceaure of the Respondents has already been noticed by Legislature. How far will this Court allow them to proceed? They continually thumb their noses at the statutory mandates.

4.D.5) Appellant contends that the record sought shows due process violations perpetrated against the Appellant by the Responcents. Appellant sought this record to present as evidence in a §1983 federal case. Respondents insist the document is not a "public record," but merely a (transitory) "intra-agency memorandum." Appellant contends the record sought is in fact required to be disclosed pursuant to RCW

42.56.280, wherein it is stated:

> "Preliminary drafts, notes, recommendations, and intra-office memorandums ... are exempt under this cahpter except that a specific record is not exempt when publicly cited by an agency **in connection with an agency action."**

RCW 42.56.280 (Emphasis added). Further, it contains the DOC Letterhead, photographs of the Appellant and other inmates, and explicityly references the Respondents' manner of dealing with due process rights (sanctions/punishments). The record sought is obviously "in connection with an agency action." Finally, the retention schedule of RCW 40.14 mandates that the record sought be retained for a minimum of two years <u>prior to destruction</u> (See **APPENDIX "B"**, herein).

4.D.6) Respondents have admitted in open court that this was a 'criminal act,' to destroy the record sought. However, in the same breath they deny that any right to penalties should be forthcoming to the Appellant for their non-disclosure. What? They failed to disclose the record. They arbitrarily invoked DOC Policy 450.100, in that they allowed the First Installment CD-ROM into the prison, and then rejected the Second Installment CD-ROM (after losing the first copy). There was never a "reasonable threat" to the institution for Appellant to possess other inmates' DOC numbers and names. It is worth noting that the Respondents have now completely removed the ability of inmates/prisoners to receive <u>any</u> information on CD-ROM format into the prison.

The only exceptions are: Discovery in an on-going case, and only from an attorney and/or a court, or if it contains music, and then only if purchased from their vested company, Access Securepak.

4.D.7) It is also worth noting that the WSR Mailroom actions are a significant portion of the §1983 case in question. It is obvious that they would be interested in stifling the Appellant from obtaining more evidence against them. The case involves arbitrary and capricious application of DOC policies to the detriment of Appellant's constitutional rights. Now they are insisting that they be allowed to conspire to conceal their misdeeds from the public and the courts with impunity.

4.D.8) This was not a "lost e-mail" sought long after it creation. This was a public record, as defined by both RCW 40.14 and RCW 42.56. The record sought was mandated to be retained for eighteen months after the disclosure request. However, Respondents destroyed the document/record, claiming it is "transitory." They never offered or disclosed the "primary records" they claim are being retained. Most of all, the primary records do not have the information sought. Respondents admitted they committed a criminal act. This is an obvious showing of bad faith on their part, regardless of whether the county prosecutor will pursue charges. Appellant has made ashowing that heis entitled to full penalties, as

well as costs and reasonable attorney fees.

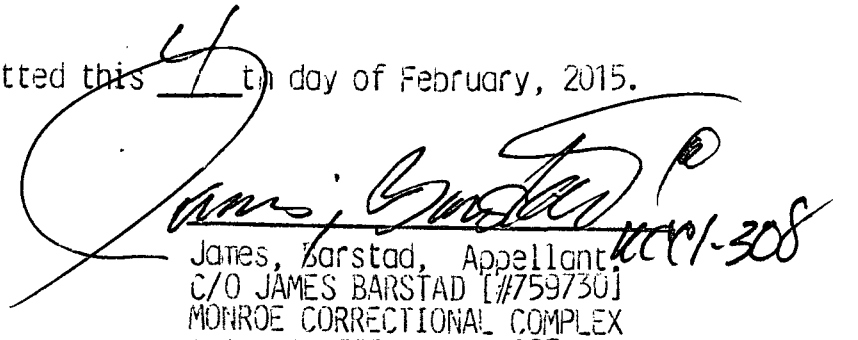
4.D.9) In summary, Respondents failed to dissclose the record sought or any primary records showing the nature of the sanction imposed upon the Appellant. Respondents also failed to disclose any primary records showing any hearing that would authorize the imposition of the unconstitutional deprivation (sanction). They have acted positively to stifle the Appellant in retrieving this evidence thorugh arbitrary application of DOC Policy. RCW 40.14.060, subsections (b) and (c) are separated by the word "or" and not by the word "and." Therefore, as the Respondents have chosen to implement subsection (b), the retentions schedule that governs the record sought must be followed. Respondents cannot now choose subsection (c) in this matter. After all, all other state prisons, besides WSR, keep these documents as mandated by the DOC Retention Schedule. Their denial of disclosure is suspect. They have admitted that they have committed a criminal act in violating RCW 40.14. Respondents cannot feel they can flagrantly circumvent the PRA with these practices, as they are violating the rights of the public and the purpose and intent of the legislature's enactment of the PRA.

CONCLUSION / PRAYER FOR RELIEF:

5.A.1) For the reasons and argument presented herein, Appellant has shown that he is entitled to relief,

consisting of maximum penalties for violation of the PRA. He is also entitled to costs and reasonable attorney fees. Appellant further requests this Court to consider and impose any other punitive penalties that they might see fit.

Respectfully submitted this 4th day of February, 2015.



James, Barstad, Appellant.
C/O JAMES BARSTAD [#759730]
MONROE CORRECTIONAL COMPLEX
P.O. BOX 777, WSRU-B123
Monroe, Washington [98272]

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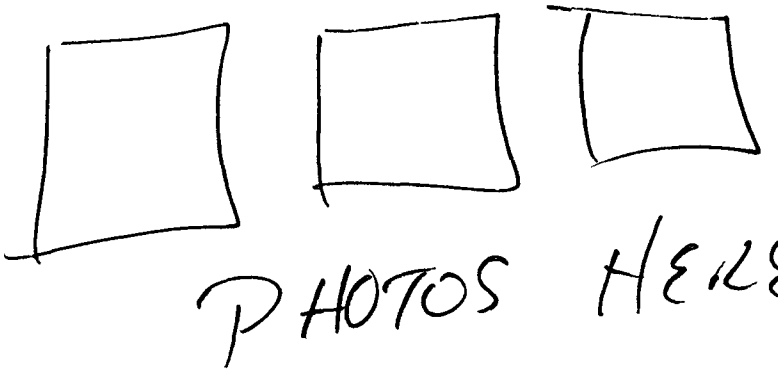
STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
WASHINGTON STATE REFORMATORY
P.O. Box 777 • Monroe, Washington 98272-0777

TO ALL STAFF
FROM SGT'S KNOX/DOPSON

DATE: 10/27/12
SUBJECT: A/B UNITS
Disciplinary Sanction List

NAME	DOC #	CELL #	SANCTION
		A Unit	
		B Unit	
Barstad	759730	B 4-36L	Unassigned Status 1200-2030 Mon-Fri Only

Unless otherwise stated cell confinement means the inmate is only allowed out of his cell for work, meals, school, visits, official call outs (not to include barber shop), (1) 15 minute shower per day, (1) 20 minute phone call per day, one scheduled religious service per week if so stipulated when sanction is levied and confinement is over 7 days. Unless otherwise stipulated, extra duty will be performed in the living units. CC will be run for last for mainline. Units, Booths, Bulletin board, Dayroom, Entries, Gym, Hobby shop, Rec. Sup, Chapel, P.A.B, Twr 9, Shif



APPENDIX A

2.5 OFFENDER MOVEMENT

The activity of tracking and monitoring movement of offenders into, within or out of the correctional facility.

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
13-09-68454 Rev. 0	***Extraditions*** Records relating to agency planning and coordination of offender extraditions to out-of-state detention facilities.	**Retain** for 6 years after extradition fulfilled, cancelled or expired *then* **Destroy.**	NON-ARCHIVAL NON-ESSENTIAL OPR
83-06-32467 Rev. 2	***Movement Rosters – Counts and Lists*** Records relating to tracking offender populations. Includes, but is not limited to: • Offender movement and location; • Offender population; • Various lists of offenders relating to work assignments, name and identification numbers, release dates; • Offender lists of lay-in status or not released from assigned units for work or other assignments.	**Retain** for 2 years after end of calendar year *then* **Destroy.**	NON-ARCHIVAL NON-ESSENTIAL OFM
95-05-54932 Rev. 2	***Transportation – Offenders*** Records relating to the transport of offenders to and from the institutions or offenders transporting into a facility from the county of origin. Includes, but is not limited to: • Transportation officer receipts; • Transport records from county facility.	**Retain** for 3 years after end of calendar year *then* **Destroy.**	NON-ARCHIVAL NON-ESSENTIAL OFM

2.6 SECURITY AND CONTROL

The activity of imposing control over offender populations in an effort to provide protection and prevent security disturbances and improper conduct.

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
13-09-68456 Rev. 0	***Law Library Access*** Records relating to requests from offenders for access to facility's law library. Includes, but is not limited to: • Granted or denied requests; • Scheduling; • Call-out logs; • Copies of offender's filed court documents.	**Retain** for 2 years after end of calendar year *then* **Destroy**.	NON-ARCHIVAL NON-ESSENTIAL OFM
83-06-32469 Rev. 2	***Logs – Security and Control*** Logs relating to the various types of tracking throughout the facility to include movements of physical items (vehicles, keys, tools), staff and offenders. Includes, but is not limited to: • Custody, key , tool and vehicle control; • Cell block and unit tower security and control; • Drug screening and urinalysis; • Administrative segregation; • Telephone logs; • Offender mail logs; • Offenders who were in lay-in status or not released from assigned units for work or other assignments.	**Retain** for 2 years after end of calendar year *then* **Destroy**.	NON-ARCHIVAL NON-ESSENTIAL OFM

2.6 SECURITY AND CONTROL

The activity of imposing control over offender populations in an effort to provide protection and prevent security disturbances and improper conduct.

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
13-09-68457 Rev. 0	***Mail and Property Surveillance*** Records relating to the inspection and review of mail and other materials or items sent to or received by inmates. Mail and materials are reviewed for appropriate content and usage and may be rejected or held from inmate as necessary. Includes, but is not limited to: • Mail rejection notices and appeals. Examples of unauthorized mail may include, but is not limited to: • Mail to and from restricted persons; • Threats, blackmail, extortion; • Plans for constructing weapons, bomb, incendiary devices; • Escape plans; • Facility security devices plans; • Codes; • Pornography.	**Retain** for 3 years after conclusion of review *then* **Destroy**.	NON-ARCHIVAL NON-ESSENTIAL OFM
82-12-30772 Rev. 2 →	***Population Management Report*** Records relating to the daily record of movement of offenders throughout the prison system. The statistical data is a composite of all institutions.	**Retain** for 3 years after end of calendar year *then* **Destroy**.	NON-ARCHIVAL NON-ESSENTIAL OFM

GLOSSARY

Appraisal

The process of determining the value and disposition of records based on their current administrative, legal, and fiscal use; their evidential and informational or research value; and their relationship to other records.

Archival (Appraisal Required)

Public records which may possess enduring legal and/or historic value and must be appraised by the Washington State Archives on an individual basis.

Public records will be evaluated, sampled, and weeded according to archival principles by archivists from Washington State Archives (WSA). Records not selected for retention by WSA may be disposed of after appraisal.

Archival (Permanent Retention)

Public records which possess enduring legal and/or historic value and must not be destroyed. State government agencies must transfer these records to Washington State Archives (WSA) at the end of the minimum retention period.

WSA will not sample, weed, or otherwise dispose of records fitting the records series description designated as "Archival (Permanent Retention)" other than the removal of duplicates.

Disposition

Actions taken with records when they are no longer required to be retained by the agency.

Possible disposition actions include transfer to Washington State Archives and destruction.

Disposition Authority Number (DAN)

Control numbers systematically assigned to records series or records retention schedules when they are approved by the State Records Committee.

Essential Records

Public records that state government agencies must have in order to maintain or resume business continuity following a disaster. While the retention requirements for essential records may range from very short-term to archival, these records are necessary for an agency to resume its core functions following a disaster.

Security backups of these public records should be created and may be deposited with Washington State Archives in accordance with Chapter 40.10 RCW.

Non-Archival

Public records which do not possess sufficient historic value to be designated as "Archival". Agencies must retain these records for the minimum retention period specified by the appropriate, current records retention schedule.

Agencies should destroy these records after their minimum retention period expires, provided that the records are not required for litigation, public records requests, or other purposes required by law.

Non-Essential Records

Public records which are not required in order for an agency to resume its core functions following a disaster, as described in Chapter 40.10 RCW.

OFM (Office Files and Memoranda)

Public records which have been designated as "Office Files and Memoranda" for the purposes of RCW 40.14.010.

RCW 40.14.010 – Definition and classification of public records.

(2) "Office files and memoranda include such records as correspondence, exhibits, drawings, maps, completed forms, or documents not above defined and classified as official public records; duplicate copies of official public records filed with any agency of the state of Washington; documents and reports made for the internal administration of the office to which they pertain but not required by law to be filed or kept with such agency; and other documents or records as determined by the records committee to be office files and memoranda."

OPR (Official Public Records)

Public records which have been designated as "Official Public Records" for the purposes of RCW 40.14.010.

RCW 40.14.010 – Definition and classification of public records.

(1) "Official public records shall include all original vouchers, receipts, and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use, and disposition of all public property and public income from all sources whatsoever; all agreements and contracts to which the state of Washington or any agency thereof may be a party; all fidelity, surety, and performance bonds; all claims filed against the state of Washington or any agency thereof; all records or

documents required by law to be filed with or kept by any agency of the state of Washington; ... and all other documents or records determined by the records committee... to be official public records."

Public Records

RCW 40.14.010 – Definition and classification of public records.

"... The term "public records" shall include any paper, correspondence, completed form, bound record book, photograph, film, sound recording, map drawing, machine-readable material, compact disc meeting current industry ISO specifications, or other document, regardless of physical form or characteristics, and including such copies thereof, that have been made by or received by any agency of the state of Washington in connection with the transaction of public business..."

Records Series

A group of records, performing a specific function, which is used as a unit, filed as a unit, and may be transferred or destroyed as a unit. A records series may consist of a single type of form or a number of different types of documents that are filed together to document a specific function.

State Records Committee

The committee established by RCW 40.14.050 to review and approve disposition of state government records.

Its four members include the State Archivist and one representative each from the Office of the Attorney General, Office of the State Auditor, and the Office of Financial Management.

INDEXES ARCHIVAL RECORDS

See the State Government General Records Retention Schedule for additional "Archival" records.

INDEX: ESSENTIAL RECORDS

See the State Government General Records Retention Schedule for additional "Essential" records.

(As of December 2013 – Department of Corrections has not completed its Essential Records Designations)

APPENDIX E-7

JAMES BARSTAD, [#759730]
MONROE CORRECTIONAL COMPLEX
P.O. BOX 777; WSRU-B436
Monroe, Washington [98272]

June 7, 2013

DEPARTMENT OF CORRECTIONS
PUBLIC DISCLOSURE UNIT
P.O. BOX 41118
OLYMPIA, WA 98504-1118

Greetings,

PDU-22661 has bee very helpful to me, but I am still having a difficult time finding Policies and/or definitions governing the following:

1) The "review and approval process" relating to Class III job suspensions, referenced in MCC/DOC Policy 700.100 (dated 10/17/11) in Section II. subsection B.

2) What exactly constitutes the "threat to security" referenced in MCC/DOC Policy 700.100 under Section II. subsection B.2.

3) What exactly constitutes "Unassigned Status 1200-2030 Mon-Fri Only" (job suspension).

4) How exactly that "Unassigned Status" is different from "Non-Programming Status" (job suspension).

5) What exactly governs these "job suspensions" (i.e., do you have to be found guilty of a WAC Violation, such as a 557 or 810 prior to their implementation? How long are they in effect? How long should they be implemented after being found "Not Guilty" of any serious infraction? Do they require a FRMT meeting/hearing to initiate and/or remove them?).

I hope these questions are not confusing. I am well aware that I am supposed to be only seeking documents from you, but I am having difficulty finding any documents governing these questions, and the procedures utilized here at MCC. I operate under the presumption that Policies must govern the actions of your agents, so why am I having such a hard time finding these Policies?

As always, your service is greatly appreciated! Thank you.

Sincerely,

JAMES BARSTAD

P.S. Please find checks enclosed to cover the cost of PDU-24186 and PDU-24877.

APPENDIX B-1

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF THE SECRETARY
P.O. Box 41131 • Olympia, Washington 98501-6504 • (360) 725-8840
FAX (360) 586-7274

July 11, 2013

James Barstad, DOC 759730
Monroe Correctional Complex
Washington State Reformatory B-436L
PO Box 777
Monroe, WA 98272

Dear Mr. Barstad:

I am in receipt of your recent correspondence to the DOC Public Disclosure Unit dated June 7, 2013. You address several specific questions you had following your Public Disclosure Request #22661. I have detailed my responses below:

1. The "review and approval process" per Policy 700.100 are requirements supervisors must adhere to. All work assignments, suspensions, and terminations are documented on MCC 700.100-F1 Offender Work/RPM Change and are submitted for review and response by the Correctional Program Manager (CPM). Counselors use a Job Screening Checklist that is reviewed by the Facility Risk Management/Multi-disciplinary Team (FRMT/MDT) and submitted to the CPM for final approval.

2. What constitutes a "threat to security?" A threat to security is any situation that may disrupt facility order or a disruption that interferes with the management of facility operations. Examples include stealing, insubordination, staff manipulation, or an offender who acts, or may appear, to be prepared for physical conflict, or presents a risk for escape.

3. "Unassigned status" refers to those who have had a program assignment and have either refused to program, or been terminated from a program/job assignment for cause. As a management tool, they may be "assigned" to their cell during a period of time while others are working/programming.

4. To answer your two "status" questions, non-programming status is used to describe those who are on referral/waiting lists and have not yet had the opportunity to work or program. This is not a commonly used term and may be confused with "unassigned status."

APPENDIX C-2

5. What governs job suspension? Job suspensions are requested by the work supervisor and governed by the CPM/CMHPM, the Facility Risk Management Team (FRMT), security staff, or the Superintendent if there are disagreements. Job terminations are a classification action and subject to appeal. Offenders have three days to appeal the outcome to the CPM. Employers may suspend an offender from work and provide their justification to the FRMT. The Classification staff review the information and can either terminate employment or return the offender to the work site. There are no set time limits. Workload and timeliness for receiving the necessary information drives the review process.

It is important that you work with your local classification team to get answers like these to your questions. They are in the best position to assist with explaining policies and operations, and providing timely answers. Please contact your counselor if you have further questions.

Sincerely,

Earl X. Wright, Deputy Director
Prisons Command B

DEP-21375

cc: Dan Pacholke, Assistant Secretary
Robert Herzog, Superintendent, MCC
Dave Bustanoby, Associate Superintendent, WSR
Central File DOC 759730

APPENDIX C-3

JAMES BARSTAD, [#759730]
MONROE CORRECTIONAL COMPLEX
P.O. BOX 777; WSRU-B436
Monroe, Washington [98272]

July 18, 2013

Earl X. Wright, Deputy Director
DEPARTMENT OF CORRECTIONS
P.O. BOX 41131
OLYMPIA, WA 98501-6504

Greetings,

Thank you for answering my questions. I will explain what has happened to me here at MCC in hopes that you might see where I have become confused about the specifics I have been researching.

1) It is no secret that the mailroom here at MCC is out of control. The Department's own statistics show that this prison rejects more outgoing mail than all other prisons in the state, 44% more than WSP (second place for 2012).

2) It is also no secret that I am preparing to litigate over the continued problems with this mailroom. The Public Disclosure requests that I have been making are "informal discovery" for the upcoming case.

3) It is also no secret that I have a current case in the Ninth Circuit regarding Religious Practices/Diets.

4) When I was preparing to serve the Defendants in my present case (April - June of 2012), the mailroom directly interfered with my attempts to get mailing addresses to serve the parties. It was very clear in my letters to two private companies that my intent was for mailing addresses for legal service. It was also very clear that I intended to send the addresses to a third party, and not here to the prison. No threats were made regarding the health/safety of anyone. Even though only 13 of the 40 original defendants are/were DOC Staff/Employees, Sgt. Todd Fredrickson actually e-mailed one of the private companies that I was using, and asked them to deny their services to me. My letter to the second company I used, U.S. Mintgreen, even after being approved by my Counselor and having a prison-generated check cut, was also intercepted at the mailroom. None of the names I requested in that letter are/were employed by the DOC. He then put a "red flag" on my mailings and expressed concerns that I was attempting to compromise my supervisor at my prison job in the Law Library. This was done without any investigation, charges, or hearing, i.e., no due process whatsoever.

5) After the Grievance process, I wrote a letter to the Office of Risk Management for PLRA exhaustion. This letter could be construed as 'scathing,' as I have become frustrated with the continual mailroom problems, and the seeming absence of any semblance of accountability regarding the actions of the MCC mailroom.

APPENDIX C-4

6) Immediately after sending this letter, Sgt. Todd Fredrickson read another of my outgoing letters, and wrote an infraction for 714 "Buying, Selling, Trading, Borrowing," as I stated in my letter that I sold a painting to the inmate who lived next door after he went home. I am sure that many federal courts would agree with me that this "censorship" is a denial of the First Amendment right to free speech. I will be presenting it to our Western Washington District shortly.

7) I was called into CUS Mark Miller's office, basically accused of strong-arming and rape, offered a "deal" and I refused. CUS Mark Miller then suspended me from work, and placed me on "Unassigned Status." My name then went onto the Disciplinary List, and I was treated as if I was on "Confined to Quarters" status.

8) Per your answer to Question Number One ("Review and Approval Process"): No MCC 700.100-F1 Offender Work/RPM Change was ever submitted. There was not ever held a FRMT. None of the procedures you have cited were followed, hence confusion over these procedures.

9) Per your answer to Question Number Two ("Threat to Security"): I think we will all be hard-pressed to determine that my sale of a painting for $20 can rise to the level of this "threat to security." It was inferred that I might be strong-arming or soliciting sexual favors, but no investigation was ever held, regarding these (rather serious) claims.

10) Per your answer to Question Number Three ("Unassigned Status"): I was never terminated for cause and have never refused to program. In fact, while under this "Unassigned Status" I continued to attend multiple classes offered by the University Beyond Bars program. While the DOC may not recognize this as "programming," I still feel that the "Unassigned Status" was erroneously applied. At one point, it interfered with my law library access, as the Disciplinary Sanction List stated, "Unassigned Status 1200 - 2030 Mon-Fri Only," and the officers interpreted this to mean that from those hours I was to be in my cell, and only in my cell. After using the Grievance process, I was finally allowed to utilize the law library. During that process, I was told that the "Unassigned Status" was <u>not</u> a "sanction," but a "custody designation." I was further told to "appeal through the FRMT." Again, no FRMT was ever held. How then was I to appeal? Also, I could not find any definition of this "Unassigned Status" in any Policy. What exactly does it mean?

11) Per your answer to Question Number Four ("Status"): You seem to agree with me, the Public Disclosure Unit, and many officers who were required to enforce my "Unassigned Status," that this term is confusing. I could find no reference to it in any DOC Policy, and yet it was applied to me on the Disciplinary Sanction List, dated 10/27/12.

12) Per your answer to Question Number 5 ("Job Suspension Government"): My supervisor did not request my suspension. There was no FRMT. I suppose that CUS Mark Miller can qualify as "security staff," but again the suspension did not originate from my supervisor/emplyrer. Since this Policy was not followed, it added to my confusion.

APPENDIX C-5

13) I was found to be "Not Guilty" of the infraction. After Sgt. Fredrickson later read more of my outgoing mail, he became concerned that I was "bragging" that I beat the infraction, and followed up with the Hearing Officer, to find out why his infraction did not stick.

14) After being found "Not Guilty" I remained on the Disciplinary Sanction List under "Unassigned Status" for an additional eight (8) days. I was "designated" as "Unassigned" and while "not a sanction," I was punished under this "designation" for a total of twenty-one (21) days.

I hope this explains why I needed clarification. DOC and MCC Policies did not cover the application of the procedures utilized here at MCC. My answers should have been there in those Policies. I do not have any trouble reading Policies. I exhausted every avenue available before you became involved. If the Policies would have been followed, you would not have heard of this, and I would not be preparing to litigate.

I do have trouble understanding why operations are allowed to deviate from the Policies. After all, they are what governs operations. They are the authority behind the badge. I respect authority. I do not respect abuse of authority. If the Policies are merely "guidelines" for staff to follow (when they arbitrarily choose), then how are you going to expect the residents to follow them? Without the authority behind it, the badge means nothing at all, and the staff become nothing more than schoolyard bullies.

Staff need to be professional. They need to follow the Policies to the letter. That is the reason they are written and implemented. I believe that is more than my opinion. I believe that it is mandated by statute and code. Legislators spend far too much time and money creating and initiating these laws for them to be tossed aside or applied when convenient. Is a staff member who doesn't follow Policy any better than a convicted felon? I think not. It should be a two-way street, and staff should lead by example.

In conclusion, I apologize that you were dragged into this, but it is necessary. Problems here are ongoing. The culture is tense and a bit combative, especially after the horrible incident. Inmates are as upset as the staff about it. The hatred needs to be focused on the actual perpetrator, and not the rest. A lot of men here are just trying to do their time, and get on with their lives. We shouldn't have to be subjected to daily doses of hostility. Thank you for listening and for your time which would have been better spent towards your actual responsibilities.

Sincerely,

JAMES BARSTAD

APPENDIX C-6

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF THE SECRETARY
P.O. Box 41131 • Olympia, Washington 98501-6504 • (360) 725-8840
FAX (360) 586-4469

August 13, 2013

Mr. James Barstad, DOC 759730
Monroe Correctional Complex
PO Box 777, WSR-B-436
Monroe, WA 98272

Mr. Barstad:

This letter is in response to your letter to me, dated July 18th, 2013. Because of the volume of information in your letter I am responding to each of your 14 points by the numbers noted in your correspondence.

1. In response to your assertion that Monroe Correctional Complex (MCC) rejects more outgoing mail than any other facility, I am unclear as to where you obtained this information. The Washington State Department of Corrections does not request that data from individual mailrooms. Rejections are handled per policy with an appeal process to ensure a thorough review.

2. No answer required as this appears to be for informational purposes only.

3. No answer required as this also appears to be for informational purposes only.

4. In regard to your writing to two private companies requesting the address of both DOC employees and private citizens; DOC policy 590.500 Legal Access for Offenders is very specific as to how offenders can serve legal documents on Department employees. Using an outside company to acquire addresses is not one of the methods approved by policy. I note that you did appeal the restriction to the assigned Headquarters staff where the restriction was upheld.

   In regard to seeking addresses of private citizens, this is seen as a threat to private citizens as DOC does not know why you are attempting to gain this information. Phone books were removed from the library to prevent offenders from having access to phone numbers and addresses of private citizens and your attempts to gain this information from an outside source were halted for the same reasons.

   Sgt. Fredrickson did contact one of the companies you were attempting to get addresses from in order to let the company know that you were attempting to obtain the addresses of DOC employees. He wanted to clarify with the company that DOC prohibits offenders from having this information and to find out if the company understood what it was you were seeking.

APPENDIX C-7

I could not find any information with regard to your claim that Sgt. Fredrickson expressed concerns that you were attempting to compromise your work supervisor and you did not provide any documentation to support that claim.

5. Appears to be for informational purposes only.

6. In regard to Sgt. Fredrickson reading your outgoing mail and then infracting you for selling a painting to another offender, I have included the following policy excerpts:

   DOC policy 450.100 Mail for Offenders, allows mailroom staff to read outgoing mail in Section III A: Designated facility staff are authorized to inspect and read incoming and outgoing mail to prevent: Receiving or sending contraband or any other material that threatens the security and order of the facility through the mail.

   DOC policy 200.00 Trust Accounts for Offenders prohibits the exchange of money or items of value between offenders in section IV C: Offenders are not allowed to directly or indirectly transfer funds between other offenders' accounts or exchange funds or items of value with staff, other offenders or their families, friends or associates, volunteers, or sponsors.

   In speaking with Sgt. Fredrickson, he remembers that in your outgoing letter you mentioned that other offenders were commissioning you to paint pictures for which you were receiving payment. Regardless if the infraction written was dismissed, if you are selling paintings to offenders and/or their families and friends, this violates policy 200.00.

7. In this allegation you claim that Correctional Unit Supervisor (CUS) Mark Miller accused you of strong-arming and rape and offered you a deal which you refused. CUS Miller remembers calling you into his office as he had been assigned to do a negotiated hearing with you for a serious infraction. The basis for the negotiated hearing is for the offender to have the ability to negotiate the sanction for the infraction with the CUS if found guilty. You refused to have a negotiated hearing and the infraction went back to the hearings officer for a formal disciplinary hearing. Because the infraction was dismissed and there is no record of it, I cannot determine what the allegations against you were. It is CUS Miller's contention that the only allegations mentioned to you during this meeting were the allegations contained in the infraction. CUS Miller does remember suspending you from your job and placing you on unassigned status due to the infraction.

8. I am assuming this in reference to you being suspended from your job. You are correct that apparently the Offender Work/RPM Change form was not filled out when you were suspended from your job. This issue has been addressed with unit staff by Correctional Program Manager (CPM) Wood. I note that you were allowed to go back to work after the infraction was dismissed.

9. You are incorrect that no investigation was held in regards to you selling a painting to another offender. The infraction process itself is an investigation. Any time one offender pays another offender for anything, there is a concern of some type of coercion or threat used. This is a legitimate threat to the orderly operation of any facility.

APPENDIX C-8

10. You are correct in that you should not have been placed on what you term as unassigned status when you were suspended from your job pending the hearing of your infraction. The proper term is Cell Assignment, which is found in attachment 1 of MCC OM 700.100 on page 10, and intended to be applied to offenders who fail to program in work or education assignments. When CPM Wood became aware that this status was being applied to offenders who had been suspended from jobs pending outcome of infractions, she put an immediate stop to the practice. She met with the unit CUS's and explained under what circumstances an offender could be placed on cell assignment.

    In regards to your statement that being on cell assignment interfered with your access to the law library, I note that you mentioned this happened at one point, indicating this was a one-time event. In fact, when CUS Miller learned of this event, he immediately clarified with unit staff that you were allowed to go to the law library.

    Although an FRMT was not held, you could have appealed the action to CPM Wood.

11. As noted in number 10, what you call unassigned status is actually cell assignment.

12. Not every instance is covered by policy; however, DOC 700.000 Work Programs for Offenders, states under Policy section IV:

    > Work programs are a privilege and may be restricted based on offender risk, behavior and/or other factors reviewed by multidisciplinary screening committees or Facility Risk Management Teams (FRMTs) per RCW 72.09 and DOC 300.380 Classification and Custody Facility Plan Review.

    Again, without knowing what the infraction was for, I would support any CUS's decision to suspend an offender from work after receiving a serious infraction if the behavior noted in the infraction is seen as a threat to the safety and security of the facility.

13. Any staff member who has written a serious infraction which has been dismissed has the right to call the Hearing Officer to find out why the infraction was dismissed. Sometimes an infraction is dismissed due to how the infraction was written. I encourage staff follow-up on dismissed infractions to understand why and determine if any improvement is needed to how they can improve their writing skills.

14. When CPM Wood became aware of your placement on cell assignment, she contacted CUS Miller and had you removed from said status.

I agree that both staff and offenders need to follow our policies. I also agree that "staff need to be professional." One way we have for offenders to address policy issues or staff professionalism is the Grievance Program. I am convinced that through the appeal process with your mailroom issues, and the grievance process to address policy application and staff professionalism, there are sufficient means for you to address your issues at the local level. As this is the second letter regarding your issues, I am referring you back to the facility level to utilize the options I have noted above. I feel I have reviewed your concerns thoroughly so this will be the last letter regarding these issues. Please utilize your local

APPENDIX C-9

remedies to address your concerns. There is competent and capable staff at the Monroe Correctional Complex who can investigate and address your concerns.

Sincerely,

Earl X. Wright, Deputy Director
Prisons Command B

DEP-21618

cc: Dan Pacholke, Assistant Secretary
Robert Herzog, MCC Superintendent
D. Bustanoby, WSRU Associate Superintendent
Michele Wood, WSRU Correctional Program Manager
Central File 759730

APPENDIX C-10

WSRU	DOC #	CELL	INF DATE	SERVE	DUE	ALLEGED WAC VIOLATION	Notes	PT LOSS	Findings	Evidence
BARSTAD, JAMES	759730	B436L	10-23-12	To serve	11-01-12	714				3797W

PDU-24877 000004 (Disc Name + Page Number)

BARSTAD, JAMES	759730	B436L	10-23-12	To serve	11-01-12	714				3797W

PDU-24877 000007

BARSTAD, JAMES	759730	B436L	10-23-12	10-26-12	11-01-12	714				3797W

PDU-24877 000009

BARSTAD, JAMES	759730	B436L	10-23-12	10-26-12	11-01-12	714				3797W

PDU-24877 000012

BARSTAD, JAMES (Continued)	759730	B436L	10-23-12	10-26-12	11-01-12	714				3797W

PDU-24877 000014

BARSTAD, JAMES (Continued)	759730	B436L	10-23-12	10-26-12	11-01-12	714				3797W

PDU-24877 000016

APPENDIX 2

Disc#2 Received 11/25/13
from Jim @ Monroe CC
Postage from Public Dis. Unit
was $1.69
♡ Mom

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
P.O. Box 41100 • Olympia, Washington 98504-1100

September 16, 2013

James Barstad, DOC#759730
Monroe Correctional Complex
PO Box 777 (WSRU-B425L)
Monroe, WA 98272

Dear Mr. Barstad:

This letter is to acknowledge receipt of your recent payment in the amount of $1.71 to cover copy and postage costs associated with your public disclosure request, PDU-24877. Please review the enclosed CD, responsive documents to your request. FYI: WSRU does not retain these reports like SOU & TRU.

These documents are provided to you in accordance with the Public Records Act. By providing you these documents and/or information, the Department is not responsible for your use of this information or for any claims or liabilities that may result from your use or further dissemination.

PDU-24877 is now closed.

Sincerely,

V. Shamberg

Virginia Shamberg, Public Disclosure Specialist
Public Disclosure Unit
Department of Corrections
PO Box 41118
Olympia WA 98504-1118

#83-06-32469: P. 35 of 48 - 24 YEARS!

APPENDIX E

"Working Together for SAFE Communities"

recycled paper

WASHINGTON
SUPREME
COURT

BARSTAD, APPELLANT,

v.

WASHINGTON D.O.C., RESPONDENT.

NO. 90616-5

CERTIFICATE OF SERVICE BY MAILING

I, JAMES BARSTAD, certify that on the below date, I caused to be placed in the U.S. Mail, first class, postage prepaid, 2 envelope(s) addressed to the below-listed individual(s):

1) WASHINGTON SUPREME COURT
P.O Box 40929
Olympia, WA
98504-0929

2) WASH. ATTY. GEN.
(HABEAS BRANCH)
P.O. Box 40116
Olympia, WA
98504-0116

I am a prisoner confined at the Washington State Department of Corrections ("DOC"), housed at the Monroe Correctional Complex ("MCC"), P.O. Box 777, Monroe, WA 98272, where I mailed the said envelope(s) in accordance with DOC and MCC Policy 450.100 and 590.500. The said mailing was witnessed by one or more correctional staff. The envelope(s) contained a true and correct copy of the below-listed documents:

1. APPELLANT'S OPENING BRIEF
2. CERTIFICATE OF SERVICE BY MAILING
3. _____
4. _____
5. _____
6. _____

I hereby invoke the "Mail Box Rule". See *Houston v. Lack*, 487 U.S. 266, 273-76, 108 S.Ct. 2379 (1988); FRAP 25(a)(2)(C); and Washington Court Rule GR 3.1 (a) — the above listed documents are considered filed on the date that I deposited them into DOC's legal mail system.

DATED this 4th day of FEBRUARY, 2015.

James Garth Bainter
(Print) BAINTER
APPELLANT, ~~Pro se~~. IN PROPER
DOC# 759730, Unit B-123
Monroe Correctional Complex
~~(Street address)~~ N/A
P.O. Box 777
Monroe, WA 98272