



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U. S. A.

EXECUTIVE ORDER NO. 87-23

INMATE WORK RELEASE PROGRAM REGULATIONS

WHEREAS, Executive Order No. 76-11 modified the Prisoner Work Release Program Regulations which were established by Executive Order No. 68-25; and

WHEREAS, to ensure the protection of the public, there exists an urgent need to modify the existing Prisoner Work Release Program Regulations; and

WHEREAS, there also exists a need for better control and utilization of monies derived from inmate participation in the Work Release Program; and

WHEREAS, a well-conceived work release program for eligible offenders, fairly and efficiently administered under uniform rules and procedures, effectively aids in the reformation of such offenders and, therefore, is in the best interest of the law-abiding community of Guam; and

WHEREAS, the Director of Corrections is authorized by Section 90.30 of 9 Guam Code Annotated to make such regulations, subject to the approval of the Governor by Executive Order.

NOW, THEREFORE, I JOSEPH F. ADA, Governor of the Territory of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended Section 6112 of the Government Code and 9 Guam Code Annotated, do hereby order that Executive Order Nos. 68-25 and 76-11 are repealed in their entirety, and the following new regulations entitled, "Inmate Work Release Program Regulations", having been made and submitted by the Director of Corrections, are hereby approved and promulgated.

Section 1. Applicability.

(a) Except as provided in subsection (b) of this section, these Regulations shall apply to the extension of the limits of confinement of inmates sentenced to the custody of the Department of Corrections under the laws of Guam.



(b) Eligibility requirements and criteria established under these regulations shall apply prospectively. Inmates who were eligible under previous regulations and are now successfully participating in work release shall be allowed to participate in the Inmate Work Release Program.

Section 2. Adjustment and Classification Committee. The Director of Corrections shall be responsible for the formation and operation of an Adjustment and Classification Committee (Committee). The Committee shall be composed of personnel of the Department of Correction and shall be responsible for placing inmates into or removing inmates from the Inmate Work Release Program, subject to the approval of the Director. The Department of Corrections shall create appropriate regulations for the operation of the Adjustment and Classification Committee and submit them to the Governor for promulgation by Executive Order within ninety (90) days of the signing of this Executive Order.

Section 3. Application for Participation. An eligible inmate sentenced to the custody of the Department of Corrections, who has spent the prescribed time in Step Plan Program III, and who is in good standing may apply to the Adjustment and Classification Committee for consideration of his qualifications to participate in the Inmate Work Release Program. The application shall be submitted on a form provided for that purpose.

Section 4. Eligibility for Participation. An inmate is eligible to apply for participation in the Inmate Work Release Program only if he meets ALL the following criteria:

[a] the inmate is within twelve (12) months of his probable release date pursuant to 9 GCA §80.70;

[b] the inmate has been without serious or persistent violations of institutional rules and regulations for at least six (6) months immediately preceding his application for participation in the Work Release Program;

[c] the inmate has displayed conduct from which there is reasonable cause to believe he will honor his trust; and

[d] the inmate is NOT sentenced to the custody of the Department of



Corrections for one (1) or more of the following crimes:

- (1) Aggravated Murder (Criminal and Correctional Code §16.30);
- (2) Murder (Criminal and Correctional Code §16.40);
- (3) Manslaughter (Criminal and Correctional Code §16.50);
- (4) Aggravated assault (Criminal and Correctional Code §19.20);
- (5) Assault (Criminal and Correctional Code §19.30);
- (6) Kidnapping (Criminal and Correctional Code §22.20);
- (7) Felonious Restraint (Criminal and Correctional Code §22.30);
- (8) Child stealing (Criminal and Correctional Code §22.40);
- (9) Custodial Interference (Criminal and Correctional Code §22.50);
- (10) Criminal sexual conduct in the first degree (Criminal and Correctional Code §25.15);
- (11) Criminal sexual conduct in the second degree (Criminal and Correctional Code §25.20);
- (12) Criminal sexual conduct in the third degree (Criminal and Correctional Code §25.25);
- (13) Criminal sexual conduct in the fourth degree (Criminal and Correctional Code §25.30); and
- (14) Assault with intent to commit criminal sexual conduct (Criminal and Correctional Code §25.35).

Section 5. Participation Criteria. Upon application for participation in the program by a eligible applicant, the Adjustment and Classification Committee shall deliberate and present a recommendation thereon to the Director of Corrections for approval. In said deliberations, the Committee shall consider, at a minimum, the following factors:

- (a) any existing law, court order, rule or regulation restricting or regulating the inmate's participation in the Program;
- (b) promotional time requirements established by the Department's Step Plan Program;
- (c) the financial status of the inmate's dependents;
- (d) the security risk created by the inmate's daily release for work;



(e) the inmate's use of intoxicating liquor or drugs;

(g) the nature and length of the inmates's criminal record, especially if it involves crimes against persons, crimes committed with the use or exhibition of a deadly weapon, violations of financial trust, connection with organized crime, an indication of serious emotional or personality abnormalities or a tendency toward violent or assaultive behavior;

(h) the inmate's employment record, especially that immediately before his confinement;

(i) the inmate's behavior or disciplinary record at the Department of Corrections

Section 6. New Participants in Program. At the discretion of the Adjustment and Classification Committee or the Director of Corrections, a new participant of the Program may be required to provide Community Service Work at the direction of the Department of Corrections for a period of up to thirty (30) days in order to evaluate the new participant before allowing him to work at his place of employment.

Section 7. Type of Work. An inmate is responsible for obtaining of his own employment, however, the type of work must be approved by the Adjustment and Classification Committee and the Director of Corrections as being consistent with the public's interest in security, and with the rehabilitative purposes of the Inmate Work Release Program. The Adjustment and Classification Committee's deliberation and decision in this matter shall be guided by, but is not limited to, the following list of prohibited employment:

(a) employment at any establishment which sells or distributes liquor or other intoxicating beverages, except if the inmate's duties are disassociated with the handling of such beverages;

(b) employment at any establishment which sells firearms or ammunition;

(c) employment as a taxicab driver;

(d) employment as a route salesman or deliveryman; or

(e) employment by a member of the inmate's immediate family, unless expressly approved in writing by the Director of Corrections.

Section 8. Consultation with Unions. The Director of Corrections may consult with representatives of any local union which is concerned with the employment of



an inmate participating in the Work Release Program.

Section 9. Time of Employment. Time of employment shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday. The inmate shall be granted not more than thirty (30) minutes, each way, to travel to and from his place of employment. No inmate shall work a shift other than 8:00 a.m. to 5:00 p.m., nor shall the inmate work overtime.

Section 10. Transportation to and from Work. Every inmate participating in the Work Release Program shall be transported directly to and directly from the inmate's place of employment by the Department of Corrections and the participating inmate shall bear the cost of such transportation. No inmate shall be transported to and from his place of employment by the inmate's family or friends. No inmate shall use his own personal vehicle for transportation to and from his place of employment.

Section 11. Compensation.

(a) Compensation earned by an inmate in connection with Work Release Program employment shall be collected by the Director of Corrections. It shall be the duty of the inmate's employer to transmit such wages to the Director when they become due to the inmate employee. After compliance with his duty, the employer shall have no liability to the inmate, provided, however, that wages levied upon pursuant to a writ of attachment, or execution, or in other lawful manner shall not be transmitted to the Director.

(b) The Director shall deduct not less than ten percent (10%) nor more than twenty-five percent (25%) from the inmate's net earnings which shall be used to pay for costs incident to the inmate's confinement, pursuant to 9 GCA §80.48. The Director shall further see that the inmate's remaining earnings are wisely used, especially in connection with support of the inmate's dependents, and payment of the inmate's debts. Any balance shall be deposited in a joint bank account held in the names of the "Department of Corrections" and the inmates.

(c) Before participating in the Inmate Work Release Program, an inmate shall agree, in writing, to the regulation of the disposition of his earnings as provided for in this section.

Section 12. Inmate Work Release Program Fund.

(a) The Department of Corrections shall establish and maintain a special fund called the "Inmate Work Release Program Fund" (Fund).

(b) The Department of Corrections shall deposit into the Fund:



(1) Money appropriated by the Legislature for the Fund;

(2) Money deducted by the Department from a participating inmate's earnings as stated in Section 11, above;

(3) Money paid to the Department as restitution; and

(4) Any other money or funds which the Department is otherwise authorized to deposit in the Fund.

(c) Money deposited into the Inmate Work Release Program Fund shall only be used by the Department of Corrections for the benefit of the Inmate Work Release Program and its participants.

(d) A complete and accurate accounting of all monies deposited into or withdrawn from the Inmate Work Release Program Fund shall be maintained by the Department of Corrections. Such accounting shall include and clearly identify the sources and amounts of all deposits into the Fund and the reasons for an amounts of all withdrawals from the Fund.

(e) A report detailing the accounting required under subsection (d) of this section shall be submitted to the Director of Administration by the Director of Corrections on a quarterly basis or as often as reasonably requested by the Director of Administration.

Section 13. Financial Records. In addition to and separate from the records required by Section 12, above, the Department of Corrections shall keep detailed records and accounts showing all financial transactions in connection with the Inmate Work Release Program. These records and accounts shall be open for inspection by the participating inmates, and shall be submitted to the Department of Administration for audit on a quarterly basis or as often as reasonably requested by the Director of Administration.

Section 14. Inspection at Job Sites. The Director of Corrections shall periodically require the inspection of inmates participating in the Inmate Work Release Program at their places of employment. Such inspections shall be made in a manner consistent with public safety, the rehabilitative purposes of the program and the convenience of the employer. An inspector from the Department of Corrections shall inspect a participating inmate not less than once weekly and shall prepare and submit a written



report on each participating inmate to the Director not less than once monthly.

Section 15. Institutional Facilities. Inmates participating in the Inmate Work Release Program shall be housed in separate facilities from non-participating inmates. To the extent practicable, such facilities shall be located outside the confines of the Adult Correctional Facility. Said facilities, in any event, shall be secure and properly supervised.

Section 16. Removal from Program. An inmate participating in the Inmate Work Release Program, upon alleged violation of any institutional rule or regulation, shall be called before the Adjustment and Classification Committee for hearing on the matter of whether he should be removed from the program. If the Committee finds cause for removal, the Director of Corrections shall immediately remove the inmate from the program and shall issue an order therefore fully stating the reasons for such removal. Removal of an inmate from the Inmate from the program. Except as otherwise provided, neither the Adjustment and Classification Committee nor the Director of Corrections may temporarily suspend an inmate from the program. Once removed from the program, an inmate shall not be reinstated. Instead, he must follow the procedures herein and the procedures of the Adjustment and Classification Committee in the same manner as if applying to participate in the program initially.

Section 17. General Rules of Conduct. The following non-exclusive rules generally govern the conduct of inmates participating in the Inmate Work Release Program. Violation of any of the following rules shall be cause for removal from the program:

(a) an inmate shall not visit with his family, relatives or friends at his place of employment;

(b) an inmate shall not leave his place of employment during working hours except in connection with a job assignment or unless specific approval is first obtained from the Director of Corrections;

(c) an inmate shall diligently perform his employment duties;

(d) an inmate shall not be involved in any fights or disturbances;

(e) an inmate shall conduct himself in a manner becoming an employee of the firm with which he is placed;

(f) an inmate shall not use or possess intoxicating liquors or non-prescription drugs;



(g) an inmate shall proceed directly from the correctional institution to his place of employment and shall report promptly for the commencement of his duties;

(h) an inmate shall return directly to the correctional institution immediately upon finishing his work for the day;

(i) an inmate shall not obtain or possess any article or substance that is classified by the Department of Corrections as contraband;

(j) an inmate, while in the program, shall not do any type of favor for any other inmate without the express written authorization of the Director of Corrections or his designated representative;

(k) an inmate shall possess and carry only such amounts of money as the Director of Corrections or his designated representative authorize;

(l) an inmate, as directed by the Department of Corrections, shall provide Community Service Work during periods of the inmate's unemployment. Such Community Service Work may be directly for the Department of Corrections or as otherwise authorized by the Director of Corrections; and

(m) an inmate shall periodically submit to urine, blood, breath or other tests for the purpose of determining the inmate's use of alcoholic beverages or non-prescription drugs.

Section 18. Institutional Discipline. A breach of discipline, or other violation of institutional rules and regulations by an inmate participating in the Work Release Program, shall given the Director of Corrections or his designated representative cause of suspend the inmate's participation in the Program for up to five (5) working days, and shall cause the Adjustment and Classification Committee to take action pursuant to Section 16 of these regulations.

Section 19. Liability of the Government of Guam. Except as otherwise provided by law, the Government of Guam shall not be liable for any incident arising out of the Inmate Work Release Program. Employees of the Government of Guam shall not be liable for any such incidents during the proper performance of duties incidental to the program.



Section 20. Delegation of Duties. The Director of Corrections, by written directive, may delegate the duties and responsibilities vested in him by these regulations to the Deputy Director of Corrections or to any division, section or program head; provided, however, that the Director shall personally review and comment upon each inmate's placement into or removal from the Inmate Work Release Program.

Section 21. Amendments to Regulations. As reasonably required, these regulations may be amended at the discretion of the Director of Corrections, subject to approval by the Governor and promulgation by Executive Order. These regulations shall be reviewed at least once annually, or oftener if the Director of Corrections considers necessary.

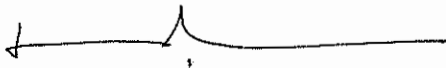
Section 22. Construction of Regulations. These regulations are intended to be supplemental to and in accord with all statutes governing the Inmate Work Release Program.

Section 23. Severability. If any part of these regulations or its application to any person or circumstance is held unconstitutional or invalid, the remainder or the application of the regulations to other person or circumstance shall not be affected.

DATED in Guam, this 16th day of July, 1987.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:



FRANK F. BLAS
Lieutenant Governor of Guam