Inter-Office MEMORANDUM

DEPARTMENT OF PUBLIC SAFETY

No. _____

Suspense: _____

July 10, 2015

TO: ALL CONCERNED

FROM: Nolan P. Espinda, Director

SUBJECT: AMENDMENTS TO COR.14.15: INMATE FURLOUGH PROGRAM

The following are the significant changes to COR.14.15, effective July 13, 2015:

1) Updated the Reference Section by deleting and adding court decision Freudenberg v. Sakai.
2) Section 3.3 added language related to Freudenberg v. Sakai.
3) Section 5.0 delete "purpose" and combined paragraphs.
4) Section 5.9 added language related to electronic monitoring.
5) Section 6.1g added language related to violations and good government of the facility.
6) Section 6.2b added language related to ADAAA.
7) Section 6.2g added language related Freudenberg v. Sakai.
8) Section 6.3b added language related to public health diseases.
9) Section 6.7 added.
10) Other minor grammar and numerical changes.

If you required any clarification, please contact Shelley Nobriga at 808-587-1415 or shelley.d.nobriga@hawaii.gov.

1.0 PURPOSE

To delineate policies governing the eligibility and granting of furloughs for committed inmates.

2.0 REFERENCES AND DEFINITIONS

.1 References.

a. Freudenberg v. Sakai, et al. 1:14-cv-00276 (D. Hawaii 9/16/14).

b. Hawaii Revised Statutes, Section 325-8, Infected Persons and Quarantine.

c. Hawaii Revised Statutes, Section 353-8, Conditional Release Centers for Committed Persons.

d. Hawaii Revised Statutes, Section 353-17, Committed Persons, Furlough, Employment.

e. Hawaii Revised Statutes, Section 353-22.5, Garnishment to Cover Non-budgeted Costs.

f. Hawaii Revised Statutes, Section 353-64, Committed Persons Paroled.

g. Hawaii Revised Statutes, Section 353C-2, Director of Public Safety; Powers and Duties.

h. Hawaii Revised Statutes, Section 353G-1, Conditions of Parole or other release from a Correctional Center or Facility.

i. Hawaii Revised Statutes, Section 353G-11, Escape from Residential Treatment Facility.

j. Hawaii Revised Statutes, Section 710-1020, Escape in the First Degree.

k. Hawaii Revised Statutes, Section 710-1021, Escape in the Second Degree.

.2 Definitions.

a. Furlough is an authorized leave of absence from the institution without an escort which is creditable toward service of sentence and is intended to provide the selected inmates opportunities for in-community experiences in family and social reintegration, education, employment, vocational training, and/or specialized treatment prior to parole.

b. Pass is a written authorization that permits an individual to go on furlough.

3.0 POLICY

.1 Furlough shall be used to enhance the reintegration process for those inmates who pose minimum risk to the community. Furlough is considered to be an important element of our correctional system and equally essential to the eventual performance of inmates after they are released to the community.

.2 The furlough programs shall be designed to provide a systematic process of transition for inmates from institutional dependency towards economic and social self-sufficiency within the community. It is intended to minimize the inmate's alienation from family and community, as well as provide a realistic measure of release readiness.

.3 Furlough is a privilege and not a right; inmates have no constitutional right to participate in a work furlough program. An inmate's ineligibility for the work furlough program and consequent ineligibility for early release does not extend his/her confinement of incarceration. Furlough participation shall be timed to end concurrent to the inmate's release date.

.4 The inmate's furlough site shall be in the county where the inmate had a permanent residence or occupation or employment prior to incarceration, unless the inmate will reside in the City and County of Honolulu.

4.0 RESPONSIBILITIES

.1 Wardens are responsible for administering and ensuring that this policy is adhered to and for establishing internal controls necessary to implement this policy. Such controls shall be subject to the approval of the Director of the Department of Public Safety (PSD) prior to the implementation of the program.

a. Overall furlough plan.

b. Inmate eligibility criteria.

c. Procedures for obtaining furlough approval.

d. Notification of county prosecutors and police chiefs.

e. Notification of victims, as required by Department Policy COR.16.05.

f. Inmate responsibilities and rules.

g. Facility responsibilities.

h. Monitoring, reviewing and notification procedures.

5.0 DESCRIPTIVE PARAGRAPH

.1 Re-socialization – designed to maintain, establish or reestablish family or community ties. Allows the inmate to respond to specific family needs and/or inmate needs when direct personal interaction by the inmate is best suited to the accomplishment of significant correctional objectives.

.2 Community Service – designed to provide inmates the opportunity to work in the community as a form of non-monetary restitution. Allows the inmate to provide an opportunity to develop positive work habits and demonstrate readiness to transition into the work furlough program.

.3 Day Reporting Center – designed to provide intensive community supervision for sentenced jail inmates and monitor their participation in treatment services when they report to the center. Allows the inmate to address inmate reintegration needs, as well as overcrowding by extending the limits of correctional custody by allowing inmates to live in the community.

.4 Educational – designed to increase academic proficiency by allowing selected inmates to attend post-high school institutions. Allows the inmate to participate in academic endeavors when it is determined that such activities will directly facilitate the release transition from institution to community.

.5 Employment – designed to provide meaningful work experiences and the development of healthy attitudes toward work and interpersonal relationships. The intent is to promote responsibility in the inmate to facilitate reintegration and

eventual return to the community. Allows the inmate to assist with transitioning from institution dependency to economic and personal independence.

.6 Training – designed to provide the inmate with special courses or training in order to improve his occupational/vocational skills. Allows the inmate to assist in the development of a marketable skill that will promote inmate self-sufficiency.

.7 Specialized Treatment – designed to make available programs in the community to fulfill inmate's need for specialized treatment. Allows the inmate to assist the inmate to enhance appropriate behaviors and attitudes.

.8 Extended Furlough – designed to permit the inmate to reside in an established residence in the community. Allows the inmate to demonstrate the ability to function as a law-abiding citizen on community status.

.9 Electronic Monitoring (EM) – utilized as a technological resource to enhance security measures and the participant's accountability in a Community Based Furlough Program. Allows the facility to monitor inmates while in a Community Based Furlough Program; however it is mandatory for inmates identified as high risk on the LSI-R assessment instrument.

.10 Others – designed to prepare the inmate to respond to unplanned or unforeseen situations (to include but not limited to funerals, civil court issues, medical appointments, etc.). Allows the inmate to respond to specific situations or needs as they occur.

6.0 GUIDELINES

.1 General Furlough Rules and Regulations

a. The Director or Deputy Director for Corrections of PSD prior to implementation shall approve the facility Furlough Program Plan.

b. Program Committee hearings shall be conducted in accordance with the Department's Classification Policy and Procedures, COR.18.01 to COR.18.08.

c. Geographical limits of each furlough shall be predetermined and clearly outlined within each furlough plan. Furloughs to other islands in the State and out-of-state furloughs require the approval of the Director of the Department (advance notification to HRS 353-8 (c) to county/state prior to commencement of furlough).

d. Furlough time is creditable toward service of sentence.

e. An inmate on furlough who is found guilty of violating the furlough conditions, rules and regulations, shall be subject to appropriate disciplinary action.

f. An inmate on furlough who fails to return from an authorized furlough within thirty (30) minutes of the expiration of the furlough pass shall be processed as an escapee unless prior approval obtained for an extension.

g. A Warden or designated representative has the discretion to suspend or terminate furlough privileges upon any violation of the furlough program's terms and conditions or for good government of the facility. The inmate will be given notice as to the reason for such suspension and may be brought before the Adjustment and/or Program Committee for proper action.

h. A department representative will monitor individual inmate compliance to the conditions of the furlough program.

i. Inmates who receive regular monetary compensation as a result of work or education activities shall be required to make payment toward the satisfaction of court-ordered restitution and fines at twenty-five per cent (25%) of their net earnings; and to contribute in part or in whole, toward their individual subsistence (HRS 353-17: Committed persons, furlough employment and HRS 353-22.5: Garnishment to cover non-budgeted cost).

   Any unauthorized monies confiscated from an inmate's person shall be handled through the facility adjustment process and confiscated funds shall be deposited into the State General Fund.

j. Each furloughee shall be required to consent to searches of their body and possessions at any time as a pre-condition for furlough.

.2 Furlough Eligibility Standards

a. The inmate shall have "community" custody classification.

b. The inmate must be physically, medically, and mentally capable of participating in the furlough program with consideration given to the requirements of the Americans with Disabilities Act Amendments Act (ADAAA). The inmate must comply with any and all medical orders and restrictions to continue in the program.

c. The inmate should have sufficient funds to pay for any necessary expenses for furloughs.

d. Furlough participation is dependent upon demonstrated progress in prescribed programs, accomplishment of stated objectives and/or demonstrated capability of independent living such as employable skills and adequate residential arrangements in the community.

e. Furlough is discretionary and involves a case-by-case determination and individualized assessments to determine appropriate placement in the program. An inmate may meet the furlough eligibility criteria or has previously participated in a furlough program; however, an inmate has no constitutional right to participate in a work furlough program.

f. Mandatory minimum-sentences are imposed by the court to require a definite period of time to be served before an inmate is granted parole.

   Mandatory minimum-sentenced inmates shall not be eligible for "furlough," unless the inmate is serving in the last year of the mandatory minimum and it coincides with the inmate having only 12 months remaining on their minimum sentence.

   All furlough programs established for mandatory minimum-sentenced inmates should be implemented with social reintegration as the primary goal and such programs should be generally scheduled to be completed cohesively with the end of the mandatory minimum sentence.

g. Inmates convicted of very heinous and grave crimes, whether serving mandatory sentences or not, shall require careful and thorough individualized assessment of their potential for continuing violent behavior on a case-by-case basis. Such assessment shall include a review of pre-commitment behavior and the instant crime, to weight against progress demonstrated during confinement.

h. The Program Committee may review furlough applications 6 months prior to the inmates' eligible dates. However, execution of an affirmative furlough decision for all mandatory minimum term cases shall not commence without approval of the Director of the Department or designated representative. Exceptions to this requirement are cases where the mandatory minimums have been served.

.3 Inmates Ineligible for Furlough

a. Inmates with criminal detainers shall not be eligible to furlough unless the other sentence is concurrent, the jurisdiction placing the detainer concurs with the furlough plans and approval is obtained from the Director of the Department.

b. Inmates diagnosed with diseases which the Department of Health has stated requires restriction from public areas shall not be eligible for furlough. Inmates who require long term hospitalization shall not be eligible for furlough.

c. Inmates with pending charge(s) shall not be eligible for furlough.

d. Inmates serving consecutive sentences shall not be eligible for furlough until they are in final sentence.

e. Inmates serving a sentence of life without parole shall not be eligible for furlough.

.4 All expenses of a furlough shall be the responsibility of the inmate, his family, or other appropriate source as approved by the Warden.

.5 Each inmate on furlough shall carry an authorized identification card and pass on his/her person throughout the furlough. Each furloughee shall present, upon request, the identification card and pass to any police officer or designated employee(s) of PSD.

.6 Whenever an inmate is admitted to participate in any furlough program, the Warden shall provide notification of such action to the Prosecutor and Police Chief of the county in which the inmate is to be furloughed, and the Prosecutor and Police Chief of the county in which the inmate was sentenced. This notification shall be made in writing thirty (30) days prior to the commencement of the furlough in accordance to HRS 353-8 (c).

.7 The facility referring the inmate for furlough placement shall be the entity responsible for notifying the applicable Prosecutor(s) and Police Chief(s). In this case, the notification shall take place at a minimum thirty (30) days prior to the transfer.

.8 The Warden shall acknowledge the receipt of any inquiry and/or objections made by the Prosecutor(s) and Police Chief(s) with a letter of response within a reasonable time period.

Such letter of response shall include the Warden's acknowledgement of the issues(s) raised by the Prosecutor(s) and Policy Chief(s) along with the final decision made by the Warden. If the inmate was transferred to another facility to participate in the furlough program, the Warden of that facility shall be apprised of the nature and the status of the objection.

.9 Notification of retake of furloughed inmates shall be in accordance with policy COR.14.01, Arrest Warrants for Furloughed Inmates.

7.0 SCOPE

This policy shall apply to all PSD correctional facilities.

APPROVAL RECOMMENDED:

7/13/15

Deputy Director for Corrections — Date

APPROVED:

7/13/15

Director — Date