

## MINUTES

### JOINT COMMITTEE ON SPECIAL CLAIMS AGAINST THE STATE

June 29-30, 2009  
Room 535-N—Statehouse

#### Members Present

Senator Thomas C. (Tim) Owens, Chairperson  
Representative Mitch Holmes, Vice-Chairperson  
Senator Terry Bruce  
Senator Ty Masterson  
Senator Dennis Pyle  
Representative Bill Feuerborn  
Representative Rocky Fund  
Representative Bob Grant  
Representative Broderick Henderson  
Representative Steve Huebert  
Representative Jeff King  
Representative Joe Patton

#### Member Absent

Senator Kelly Kultala

#### Staff

Cindy Lash, Kansas Legislative Research Department  
Amy Deckard, Kansas Legislative Research Department  
Mike Corrigan, Office of the Revisor of Statutes  
Mike Heim, Office of the Revisor of Statutes  
Kathy Letch, Committee Secretary

#### Others in Attendance

Libby Snider, Kansas Department of Corrections  
Edie Martin, Kansas Department of Revenue  
Patricia Platt, Motor Fuel Tax Refunds, Kansas Department of Revenue  
M. J. Willoughby, Kansas Judicial Branch  
Lana Walsh, Kansas Judicial Branch  
Tanya Keys, Kansas Department of Social and Rehabilitation Services

Sue McKenna, Kansas Department of Social and Rehabilitation Services  
Elizabeth Phelps, Kansas Department of Social and Rehabilitation Services  
Carl Patillo, Durable Power of Attorney for Mary Patillo  
Andy Schlapp, Wichita State University  
Angela Brown

**Monday, June 29  
Morning Session**

The Chairperson called the New Member Orientation portion of the meeting to order at 10:00 a.m. and asked all those present to introduce themselves.

Cindy Lash, Kansas Legislative Research Department, began the overview for new Committee members (Attachment 1 and 2). She explained the Claims Committee decision-making process, issues of equity, and that the Committee's actions are recommendations for the Claims bill.

During the 2008 Interim:

- 130 claims were heard;
- 79 percent of the claims were against the Kansas Department of Corrections;
- The Committee recommended full or partial payment on 14 of the 130 claims; and
- The total amount recommended by the Committee was approximately \$158,000, of which approximately \$145,000 was for Motor Fuel Tax Refunds.

Mike Corrigan, Office of the Revisor of Statutes, spoke about the statutory requirements governing the Committee (Attachment 3). He clarified that a person does not normally have to file a claim with the Committee to exhaust administrative remedies, and explained state agencies' ability to pay claims directly, within certain limits. He discussed executive sessions, mentioned previous legislation that would have reduced the number of members and changed the make-up of the Committee, and described how provisos have been used to handle complex claims' payments.

A Committee member asked about the possibility of introducing a bill to inhibit frivolous claims that appear to waste Committee time and state money. The member's opinion is that the same standards should apply with the Committee that apply in court.

In response, Mr. Corrigan explained that the Committee cannot introduce a bill other than the Claims bill. He is available to work with the Committee on procedures regarding threats and frivolousness, among other things, that could go into a bill introduced by another committee.

Amy Deckard, Kansas Legislative Research Department, provided background on the Committee and the Claims bill. The Claims bill is an appropriation bill and is subject to amendments and line-item veto by the Governor. After the bill is signed into law, the Department of Administration mails the claimant forms which acknowledge a complete release of any claim against the State. The Department of Administration does not send the claimant a check until the signed release has been received.

She explained that claims are paid from state agency funds, unless designated to be paid from the State General Fund. Claims are paid from the agencies' existing funds; agencies do not receive an increase in budget to pay claims against them.

A Committee member asked about the possibility of a process for expediting "small claims."

Ms. Deckard answered that most of the claims for small amounts are filed against the Kansas Department of Corrections, which has already considered all claims against it that are under \$500. These claims have been investigated by the correctional facility, and rejected in full or part by the Secretary of Corrections. They can then be filed with the Committee. Claims greater than \$500 cannot be paid by the Department, so must be filed with the Committee or filed as a lawsuit.

Patricia Platt, Kansas Department of Revenue, stated that motor fuel tax refund statutes have been in place since the 1940s, and were probably put in place to benefit farmers. Now, however, the bulk of it is for construction use. Motor fuel tax currently is \$.24 per gallon on gasoline and \$.26 per gallon on diesel. The Motor Fuel Tax is an excise tax. The refund is for the tax on motor fuel and special fuel used in vehicles for off-road purposes, such as farming, and construction, or for special uses, such as school buses. If the vehicles are not required to be tagged, refunds of \$25 or more on taxes are eligible. This includes four-wheelers, lawn mowers, and boats used for personal use, among others. When motor fuel tax is refunded, the end-user must then pay sales tax on the refund.

Ms. Platt stated the Department gets approximately 6,000 requests for Motor Fuel Tax Refunds annually. The Department is authorized to refund taxes if the request is received within one year of the date the expense was incurred. Refund requests received one to three years after the expense must be considered by the Claims Committee (Attachment 4).

Libby Snider, Staff Attorney with Kansas Department of Corrections (KDOC), explained that KDOC currently houses about 8,500 inmates in eight different institutions across the state. Many policies and procedures are in place for KDOC; they are called Internal Management Policies and Procedures (IMPP). The IMPPs are available on the KDOC website as are the relevant KARs. In addition, every facility has a set of general orders, and some have living-unit rules as well. Some of the most relevant rules were provided for Committee members (Attachments 5 and 6).

Depending upon an inmate's security or incentive level, personal property must fit in a 15 inch by 13-inch by 21-inch box. Legal materials are allowed an additional box. Electronics do not have to fit within the personal property box. Items valued over \$15 should be engraved with the inmate number. The box value is limited to \$75. IMPPs limit the amount of individual personal property specifically.

Property is an effective governing tool for incentive or motivation. Inmates often have property packed and stored for various reasons, from moving to a different facility to restriction level changes to disciplinary reasons. The inmate's property file is a single hard copy file, not stored electronically or in duplicate. The property is inventoried at every move, every packing, and every unpacking of the box.

IMPP 01-117 authorizes the Secretary of KDOC to pay a non-inmate personnel claim as well as a public claim up to a maximum amount of \$1,000. IMPP 01-118 states the Secretary of KDOC has the authority to pay an inmate claim up to a maximum amount of \$500. 2006 HB 2818 would have increased the internal processing limit from \$500 to \$2,500; however, that bill died in the House Appropriations Committee. Ms. Snider suggested that inmates will sometimes claim more than the limit for internal procedure, simply to get the claim before the Committee without having to go

through the internal claim process. Many of the values are specified within the IMPPs, including depreciation. Establishment of ownership and value are required, among other things, for KDOC to be willing to pay an internal claim.

The meeting recessed for lunch.

### **Afternoon Session**

The Chairperson reconvened the meeting at 1:00 p.m.

*Representative Grant moved that the minutes of the December 17, 2008 meeting be approved; Representative Henderson seconded the motion; the motion carried.*

*Representative Grant moved to approve the Rules; Senator Pyle seconded the motion; the motion carried.*

The Chairperson opened the telephone hearing on the claim filed by inmate **Donald R. Cunningham at Norton Correctional Facility (NCF), Claim No. 6112.** Mr. Cunningham summarized his claim against KDOC for \$93.64 for loss of property from his locker. He had no lock on his locker.

Libby Snider, KDOC, stated that Mr. Cunningham did not note any missing items on the inventory sheet he was given. If Mr. Cunningham did not have a lock for his locker, he should not have a locker full of canteen items. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6112 be denied.*  
*(See section captioned "Committee Action and Recommendation.")*

The Chairperson opened the telephone hearing on the claim filed by inmate **Dwayne Wright at Winfield Correctional Facility (WCF), Claim No. 6118.** Mr. Wright summarized his claim against Hutchinson Correctional Facility for \$20.00 due to property damage. Mr. Wright was transferred from the Hutchinson Correctional Facility minimum unit. When his property was returned to him, he found one of his fans was broken, a light bulb was broken, and a pair of shorts and a coffee cup were missing. Mr. Wright stated that he went through internal administrative procedures, but it did not help him.

Libby Snider, KDOC, stated that the documentation showed a considerable delay in Mr. Wright submitting his internal claims on the items mentioned in Claim No. 6118. There is no specific time limit, but it is stated in IMPPs that an inmate must note damage or missing items when signing an inventory sheet for property. She also is not aware of a specific amount of time an inmate is given to check the inventory form against property. She recommended that the claim be denied.

Mr. Wright responded that when property is returned the form must be signed, but at least at Hutchinson Correctional Facility, inmates are not allowed to look through their property or plug in electronics at the time it is given to them in order to keep the line moving.

*Following discussion, the Joint Committee recommended that Claim No. 6118 be denied.*  
(See section captioned "Committee Action and Recommendation.")

The Chairperson opened the telephone hearings on the claims filed by inmates at **Ellsworth Correctional Facility**.

**John Edwards summarized Claim No. 6153** against Hutchinson Correctional Facility for \$56.80 due to loss of property. He stated that in maximum custody he did not have a locker in which to lock his personal property, simply a shelf. When he was packed out to segregation with three other inmates, he was not allowed to pack his own property though he tried. The officers would not let him lock his property in the officer's office. When he was released from segregation, his radio and headphones were missing. The items were not on his inventory sheet.

Libby Snider, KDOC, replied that he did sign the inventory sheet without showing any items as missing. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6153 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**Sheldon E. Judd summarized his Claim No. 6156** against El Dorado Correctional Facility for \$257.87 due to shipping out his tinted glasses to a friend for safe-keeping. He stated that after 13 or 14 years of incarceration, he was allowed to purchase his own glasses. He has worn tinted lenses since he was 16 years old, due to head injuries. When transferred again to Ellsworth Correctional Facility, the facility would not allow him to keep his tinted-lensed glasses. He was required to send out his glasses and to wear state-issued glasses. He lost the use of his glasses he purchased, the cost of the eye appointments, and time away from work. He stated, also, that his tinted lenses were not so dark that his eyes could not be seen.

Libby Snider, KDOC, stated Mr. Judd's optometrist recommended tinted lenses. Correct Care Solutions has its own policy that requires the optometrist recommendation be forwarded to their regional office. Upon transfer, another request was sent. The regional office denied the authorization. She recommended that this claim be denied.

A Committee member asked Ms. Snider to find out the reason for the denial of authorization.

Ms. Snider said the tinted lenses evidently should not have been approved at El Dorado Correctional Facility since there was no medically approved recommendation for the tinted lenses.

*Following discussion, the Joint Committee recommended that Claim No. 6156 be denied.*  
(See section captioned "Committee Action and Recommendation.")

The Chairperson opened the telephone hearings on the claims filed by inmates at **Lansing Correctional Facility**.

**Steven Kent Bloom summarized Claim No. 6158** against the Kansas Supreme Court for \$10,000,808.87 due to personal injury and property damage. Mr. Bloom stated that the Appellate and Supreme courts of Kansas acted in opposition to state laws. He submitted an appeal brief, but the courts refused to file his appeal. The Kansas Parole Board has denied parole for ten years based on the courts' denial.

M. J. Willoughby, Kansas Judicial Branch, responded that Mr. Bloom's appeal was expedited. He was given more time, which he did not use. The appeal was then denied. He chose to go to U.S. Supreme Court instead. Ms. Willoughby recommended that this claim be denied.

Mr. Bloom replied that he filed a motion for an extension, which the judge refused. He refiled, but the court refused.

A Committee member asked how Mr. Bloom came to a \$10 million figure. Mr. Bloom responded that the Parole Board has been using unjust disciplinary reports that he has been denied the right to litigate to deny him parole for ten years and he wants \$1 million per year that he was denied the right to defend himself against the disciplinary reports.

*Following discussion, the Joint Committee recommended that Claim No. 6158 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**Jeffery L. Campbell summarized Claim No. 6134** against Lansing Correctional Facility for \$490.68 due to loss of property. Mr. Campbell stated that his leather goods were missing from his locked locker.

Libby Snider, KDOC, replied that the locker showed no signs of forced entry and the sharing of lockers or combinations is not allowed. When investigating the claim, the staff key could not unlock the locker, so it appears that staff negligence could not have been responsible for the missing items. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6134 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**Justin Wheeler summarized Claim No. 6140** against Hutchinson Correctional Facility for \$71.17 due to loss of property. Mr. Wheeler stated that he was packed out by officers when he was moved to segregation and then transferred to Norton. Upon arriving in Norton, his watch and boots were missing from his personal property.

Libby Snider, KDOC, replied that while in segregation and again upon the move, Mr. Wheeler signed the inventory sheet without noting any missing items. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6140 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**Brian Manis summarized Claim No. 6159** against Lansing Correctional Facility for \$88.20 in back wages. He was removed from his job while the facility was investigating him for wrongdoing. He was found not guilty of wrongdoing, yet he lost out on three months of state employment. The battery they were investigating did not happen on the job.

Libby Snider, KDOC, replied that the investigation of battery was a valid investigation and necessary. He has no right to employment while incarcerated. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6159 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**Danny R. Schmidt summarized Claim No. 6145** against Lansing Correctional Facility for \$99.76 due to property damage and confiscation. Mr. Schmidt explained that his cell had been shaken down, and items were broken and missing from his cell. An officer verified broken and missing items. His shower shoes were found in the shower, but nothing else was located.

Libby Snider, KDOC, replied there was no indication that anyone had entered his cell. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6145 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**Ricardo Murillo attempted to summarize Claim No. 6141** against Lansing Correctional Facility for \$57.52 due to loss of property. Mr. Murillo speaks little English. With Gina Walls, KDOC staff, acting as interpreter, he explained that he was packed out of his cell by guards, and upon the return of his property some of it was missing. He had help filling out the claim form.

Libby Snider, KDOC, replied that Mr. Murillo signed the inventory sheet without marking any items as missing. She recommended that the claim be denied.

Committee members discussed communication issues for non-English-speaking inmates and where the burden falls to interpret inventory sheets and other KDOC documents.

*Following discussion, the Joint Committee recommended that Claim No. 6141 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**Rodney Turner summarized Claim No. 6148** against KDOC for \$1,500 per day due to personal injury and loss of liberty interest.

The Chairperson informed Mr. Turner that since he has taken this case to court the Committee is unable at this time to act on the claim. He may refile this claim at a later time upon conclusion of the court case, if he so desires.

*Following discussion, the Joint Committee recommended that Claim No. 6148 be dismissed without prejudice.* (See section captioned "Committee Action and Recommendation.")

**Jerome Cheeks summarized Claim No. 6149** against KDOC for \$25,000.00 due to personal injury and retaliation. He stated that while he was waiting for bed space in the Intensive Management Unit (IMU) program for which he was already approved, he was taken from the cell block for more than four months to go to court about being released from administrative segregation in super-max. At that time they removed him from recommendation for the IMU program, which also kept him from getting more desirable bed space. He believes they removed him from recommendation for the IMU program because he litigated his claim, which was denied in district court, and filed an appeal.

Libby Snider, KDOC, replied that Mr. Cheek's claim about a change in his status was not substantiated with any documentation back to November 2004. She could not find that he had been approved for nor was to be moved to the IMU program. All indications were that "no change" was consistently the recommendation. She recommended that the claim be denied.

Mr. Cheeks responded that the documentation was available from May and June of 2004.

*Following discussion, the Joint Committee recommended that Claim No. 6149 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**Jerome Cheeks then summarized Claim No. 6150** against KDOC for \$148,000.00 due to personal injury and lack of due process. He explained that at the time that the Kansas Administrative Regulations (KARs) were revoked and the Internal Management Policy and Procedures (IMPPs) were implemented, he was in administrative segregation. He should not have been kept in segregation because he was not placed there under IMPPs. The \$148,000 was for \$119.00 per day for the five years and nine months he was kept in segregation.

Libby Snider, KDOC, replied that when the KARs were revoked, internal policies were still in force. His right to due process was not violated; it was appropriate that the internal policies kept him in segregation. She recommended that the claim be denied.

Mr. Cheeks stated that he was denied parole twice due to being in super-max.

*Following discussion, the Joint Committee recommended that Claim No. 6150 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**Dwight Woolridge summarized Claim No. 6133** against Lansing Correctional Facility for \$58.36 due to loss of property. He stated that his shoes and clock were confiscated for being altered and he was given a disciplinary report. He requested their return, but was told they were lost.

Libby Snider, KDOC, replied that his items were confiscated due to the fact that he was storing marijuana in them. Mr. Woolridge pled guilty to the allegation. Inmates have no legal claim for contraband, which is what the shoes and clock became when they were used as a storage vessel for illegal contraband (marijuana). She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6133 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**James Gail Cody Crawford summarized Claim No. 6092** against KDOC for \$10,000.00 due to personal injury. He explained that the stairs were wet and no caution signs were displayed when he fell on the stairs and injured his shoulder. He said one officer mentioned that he appeared to be horsing around with a guard when he fell, but he denies this allegation.

Libby Snider, KDOC, replied that the incident report was located. It stated that guards witnessed Mr. Crawford when he fell, and wet floor signs were displayed. The inmate filed a grievance, but then withdrew the grievance. His shoulder was injured, but he has received medical attention. She recommended that the claim be denied.



Mr. Crawford mentioned he is on work restriction. He has asked for a copy of his claim and letter of recommendation from KDOC, as well as a copy of the minutes from this Committee meeting when approved.

*Following discussion, the Joint Committee recommended that Claim No. 6092 be denied.*  
*(See section captioned "Committee Action and Recommendation.")*

The Chairperson opened the telephone hearing on the claim filed by **Terril Hutton at Larned Correctional Mental Health Facility**. Mr. Hutton summarized **Claim No. 6124** against Larned Correctional Mental Health Facility for \$940,000,000 due to loss of property and property damage. He explained that when being moved from one cell to another cell, his property was confiscated and destroyed. His mother's lawyer recommended that he claim a high dollar figure to prevent this type of action from being repeated. His claim did not mention any dates of confiscation of his property due to the inventory receipts not having dates.

Libby Snider, KDOC, replied that Mr. Hutton could not prove ownership of some of the items, so they were confiscated. Other items were confiscated because, per IMPP, no logos are allowed on plastic cups. No notes were made on the inventory sheets that items were missing. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6124 be denied.*  
*(See section captioned "Committee Action and Recommendation.")*

The Chairperson opened the telephone hearings on the claims filed by inmates at **Topeka Correctional Facility**.

**LaTrena Webb summarized Claim No. 6016** against Topeka Correctional Facility (TCF) for \$100,000 due to personal injury, which was carried over from the December 17, 2008, Committee meeting. She explained that TCF assigned her to a top bunk, against her complaints and against their own records from her previous incarceration that stated she should be on the bottom bunk. She has diabetic seizures. Her first night in the facility she had a seizure and fell from the top bunk, causing unconsciousness, a severe concussion, and head injury. She considered filing a lawsuit, but could not find a lawyer willing to sue the State of Kansas. The amount of her claim was simply a number she picked. No amount is really adequate, because she could have died from the fall. She continues to have daily headaches.

Libby Snider, KDOC, replied that she should have been given a bottom bunk. No verification of Ms. Webb's claim that she told KDOC staff about the bunk restriction is possible, as Ms. Webb could provide no names of staff she told. There were no witnesses who claim to have seen her fall from her bunk. When she was taken to the hospital after the fall, she tested positive for amphetamines, whether legal or not is not known, but no injuries were apparent beyond "fairly superficial lacerations" to her head. Ms. Snider could not substantiate Ms. Webb's assertion of a day and a half of unconsciousness, but there is medical staff notation of "in and out of consciousness." She does have Type 2 Diabetes and receives medication for it. On the intake summary, Ms. Webb mentioned a history of back pain. Ms. Snider recommended that the claim be allowed for \$500.00 for KDOC staff negligence in bed assignment upon admittance. This amount is historically consistent for this type of claim against KDOC for this type of negligence.

When asked by a Committee member if \$500 is acceptable, Ms. Webb responded that it was not acceptable and should be more.

Following discussion, the Joint Committee recommended that Claim No. 6016 be allowed for \$500.00. (See section captioned "Committee Action and Recommendation.")

**Debbie Meyer summarized Claim No. 6102** against Topeka Correctional Facility for \$50,000 due to personal injury. She explained that the dentist for the correctional facility told her that nothing was wrong with her teeth. She then told him she wanted her teeth cleaned, to which he replied that he would clean her teeth, but not until he pulled a specific tooth because of an abscess.

Libby Snider, KDOC, replied that in June 2008, Ms. Meyer's tooth was chipped when a filling was being removed, and half of the tooth was extracted. Two different dentists recommended that the rest of the tooth be pulled. After evaluation by an oral surgeon, with her permission, the rest of the tooth was extracted. There is no documentation that her treatment was inappropriate. Ms. Snider recommended that the claim be denied.

Ms. Meyer said, at the very least, she needs a partial denture, but KDOC will not pay for it. She asked if the Claims Committee would approve a \$90 payment for the partial.

Following discussion, the Joint Committee recommended that Claim No. 6102 be denied. (See section captioned "Committee Action and Recommendation.")

**Natalie Callaway summarized Claim No. 6108** against Topeka Correctional Facility for \$16 million for personal injury due to eight years of violation of her 14th and 8th Amendment rights. KDOC has failed to provide adequate mental and physical health care for her gender identity disorder (GID). The diagnosis was first made between the ages of 12 and 14 years.

KDOC also has failed to allow her visitation with her son, even though she filled the role of a parent to the child. She has been discriminated against because of her GID. The discrimination has caused great distress to her and her son.

Her claim amount is based on the eight years, from date of incarceration to the date of the claim at \$1 million per year, for non-treatment of her GID, not allowing visitation with her son, future costs for treatment and specific therapies the KDOC will not provide, and mental anguish.

The Chairperson explained to Ms. Callaway that due to her ongoing lawsuit regarding this issue, the Claims Committee is not able to consider her claim at this time. (*Natalie Callaway vs. State of Kansas*, Case No. 08C 1737 filed February 17, 2009 with the Kansas Court of Appeals) She may refile the claim upon conclusion of the lawsuit.

Following discussion, the Joint Committee recommended that Claim No. 6108 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")

**Shelia D. Hudson summarized Claim No. 6122** against Topeka Correctional Facility for \$30,000 per year for personal injury. Ms. Hudson explained that she was diagnosed with carpal tunnel in her right wrist due to baking and food preparation as primary baker from 1991 to 2001. She is required to wear two wrist bands. Her baking duties were to mix and roll bread dough, as well as to meet all baking needs for the facility from scratch, which involved 500 servings daily. She received \$21.00 per month in 1991. When working for Armark, she was an hourly worker. She filed twice for disability and was denied twice. She is now on medical restriction, cannot work as a baker any longer, and may only work at other jobs four hours a day due to physical limitations.

Libby Snider, KDOC, replied that Ms. Hudson was never diagnosed with carpal tunnel syndrome by any licensed healthcare practitioner with KDOC and any mention of it has been totally self-reported. Her symptoms and diagnosis seem to vary from time to time and are inconsistent with carpal tunnel. From July 2001 to April 2004, she made no mention of carpal tunnel. In 2008, she mentioned that she had never been diagnosed with carpal tunnel outside of KDOC, but had always been treated for it while incarcerated. Ms. Snider recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6122 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**Asa Adams summarized Claim No. 6168** against Kansas Department of Social and Rehabilitation Services (SRS) for \$100,000,000 due to personal injury. She explained that while her daughter was on life-support in the hospital due to trauma and head injury, the judge ordered that she not be removed from life-support. Ms. Adams said she was told that SRS directed hospital staff to remove the life-support.

Chairperson Owens discussed whether there was an ongoing lawsuit on this claim's issue. Sue McKenna, SRS, explained that the claimant's current lawsuit is an appeal of the claimant's conviction for first degree murder in the death of her daughter.

Ms. McKenna explained that while the child was in the custody of the Secretary of SRS, the Secretary was not asked for consent to remove life support. The hospital's position was that the child had died. Removal of life support was postponed pending an inquiry regarding the harvesting of viable organs. That matter went before the court. The court adamantly opposed removal of life support or harvesting of any organs. Three days later, the matter again went before the court. The court then made the legal conclusion that the child had been dead prior to the earlier court hearing. Paramedics responded on May 16; the child was pronounced clinically dead on May 22. Ms. McKenna recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6168 be denied.*  
(See section captioned "Committee Action and Recommendation.")

The meeting was adjourned at 5:20 p.m.

## **Tuesday, June 30**

Chairperson Owens called the meeting to order at 9:00 a.m.

The Chairperson opened the telephone hearings on the claims filed by inmates at **El Dorado Correctional Facility**.

**Ray Floyd Garcia, Jr. summarized Claim No. 6125** against El Dorado Correctional Facility for \$19.00 due to confiscation of property. He explained that 30 newspapers were confiscated from his cell and thrown away, because he allegedly used a rolled up newspaper and a pencil as a weapon. He claimed that he would have received a disciplinary report (DR) if he had been guilty of this action. He only received yard restriction.

Libby Snider, KDOC, replied that Mr. Garcia did receive a DR. The shakedown report also is referred to in her documentation showing 30 newspapers were confiscated. IMPP allows only ten newspapers. She recommended that the claim be denied.

Mr. Garcia rebutted that the DR was given during the next shift; it was not given for the same incident.

*Following discussion, the Joint Committee recommended that Claim No. 6125 be denied. (See section captioned "Committee Action and Recommendation.")*

**Ray Floyd Garcia, Jr. summarized Claim No. 6126** against El Dorado Correctional Facility for \$500.00 due to personal injury. He explained that he has nerve damage in his wrist due to handcuffs being put on him too tightly.

Libby Snider, KDOC, replied that Mr. Garcia's medical records show he has some arthritis. He also broke his elbow in three places when he was a teenager, but there is no substantiation of any nerve damage. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6126 be denied. (See section captioned "Committee Action and Recommendation.")*

**Ray Floyd Garcia, Jr. summarized Claims No. 6130 and 6131** against El Dorado Correctional Facility for \$500.00 due to personal injury and \$57.50 due to property damage. He explained that while handcuffed behind his back in his cell with the door closed, officers sprayed mace at him through the food opening of the cell door. Force was used as the group of officers entered the cell and pushed him down on his bunk. They tightened his necklace and had hands around his neck. The mace stained his shoes.

Libby Snider, KDOC, replied that Mr. Garcia was removed from the indoor exercise area and was issued a DR for disobeying an order. When Mr. Garcia attempted to slip out of the restraints, chemical intervention was used. He was put into the shower then for decontamination and his shoes got wet but were not rendered unusable. She recommended that the claims be denied.

Mr. Garcia explained that his shoes were given as evidence in the internal complaint he made and were never returned to him.

*Following discussion, the Joint Committee recommended that Claim No. 6130 and Claim No. 6131 be denied. (See section captioned "Committee Action and Recommendation.")*

**Cleo Hall summarized Claim No. 6127** against El Dorado Correctional Facility for \$200.00 due to loss of property. He explained that when his allowable property was given to him while in segregation, he signed for the return of one box and was told he had two other boxes. When he got out of segregation, he was told his other two boxes were lost.

Libby Snider, KDOC, replied that Mr. Hall's claim is for five items, only one of which is on the inventory sheet, which he signed as received. Three boxes would have been excessive property. She recommended that the claim be denied.

Mr. Hall explained that he only received his hygiene items, for which he signed. His fan, TV, radio, and hot pot are separate and not considered excessive property if it does not fit into one box.

Ms. Snider responded that electronics are allowed beyond the one box of personal property and one box of legal documentation.

*Following discussion, the Joint Committee recommended that Claim No. 6127 be denied. (See section captioned "Committee Action and Recommendation.")*

**Thomas Everson summarized Claim No. 6135** against Hutchinson Correctional Facility for \$51.64 due to loss of property. Mr. Everson's personal property was packed out after he went to segregation. He was then transferred to a different facility. His property did not follow.

Libby Snider, KDOC, replied that this appears to be true. She recommended that the claim be allowed.

*Following discussion, the Joint Committee recommended that Claim No. 6135 be allowed for \$51.64, paid for by Hutchinson Correctional Facility. (See section captioned "Committee Action and Recommendation.")*

**Jim C. Elliott summarized Claim No. 6139** against Lansing Correctional Facility for \$342.70 due to loss of property. He explained that when he was transferred and his level was changed, someone marked his property for destruction and donation. It was not his signature. He did not sign it over.

Libby Snider, KDOC, replied that Mr. Elliott received a DR and he was dropped to Incentive Level One. He was no longer allowed property. His wife said he told her that he had to dispose of his property, but did not ask her to come pick it up. It was donated to a not-for-profit organization in Leavenworth. Ms. Snider recommended that the claim be denied.

Mr. Elliott replied that his wife could not drive 400 plus miles to collect his property and the facility would not authorize a special purchase order to send items to her.

*Following discussion, the Joint Committee recommended that Claim No. 6139 be denied. (See section captioned "Committee Action and Recommendation.")*

**John H. Pickerill summarized Claim No. 6144** against KDOC for \$13.84 due to being required to use Goin' Postal. Mr. Pickerill was charged \$10.00 to send a belt buckle out, instead of the \$.84 that it should have cost him.

Libby Snider, KDOC, replied that there was not a second mailing option at that time according to Department policy. Now there are other options available. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6144 be denied. (See section captioned "Committee Action and Recommendation.")*

**James Monroe Pollock summarized Claim No. 6147** against El Dorado Correctional Facility for \$16.87 due to property damage. He explained that he bought a hot pot. After the hot pot broke, he wrote to the manufacturer, Rival, who sent him a new hot pot. The facility would not allow him to keep the new hot pot because it was not purchased from the facility's canteen, as required by policy.

Libby Snider, KDOC, replied that the new hot pot the manufacturer sent Mr. Pollock did not conform with Departmental policy. She recommended that the claim be denied.

At Mr. Pollock's request, a copy of the Committee minutes will be sent to him upon approval by the Committee at the November meeting.

*Following discussion, the Joint Committee recommended that Claim No. 6147 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**Dmitri Woods summarized Claim No. 6162** against Hutchinson Correctional Facility for \$102.93 due to loss of property. Mr. Woods explained that after receiving a DR, he was put in segregation. His television was taken at that time, but was not put on the inventory sheet.

Libby Snider, KDOC, replied that the television was the subject of the DR. It was not properly registered and there had been tampering with the stickers on it. Therefore, it was confiscated as contraband, Mr. Woods was given a DR, and was put in segregation. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6162 be denied.*  
(See section captioned "Committee Action and Recommendation.")

*Following discussion, the Joint Committee recommended that **Thomas Landwehr's Claim No. 6157** be carried over to the November meeting.* (See section captioned "Committee Action and Recommendation.")

**Cindy Lash, Kansas Legislative Research Department, summarized Claire Gadberry's Claim No. 6128** against Kansas State Fair for \$20,000 due to personal injury. Ms. Gadberry was at the State Fair in Hutchinson, walking three-abreast along a sidewalk when she stepped in a hole beside the sidewalk and fell, shattering her shoulder, breaking her glasses, causing her to be off work for three weeks, and requiring physical therapy. She also would like her health insurance reimbursed. Ms. Lash explained that originally Ms. Gadberry had asked for a "fair amount" and later asked for \$20,000 compensation. The claim form indicates there is no litigation on this claim at this time.

Denny Stoecklein, Kansas State Fair, via telephone, explained that the sidewalk had been poured during the summer of 2008. It is code width or greater. It was finished properly, but the heavy rains that they experienced evidently washed dirt away from beside the walk. The injury occurred on September 12, 2008 and the hole was filled in with sand on September 12, 2008, apparently after her fall. Maintenance staff respond to complaints and comments quickly. There were 340,000 visitors during the week of the State Fair in 2008, and another 150,000 throughout the rest of the year. Copies of colored photographs of the sidewalk after the holes were filled with sand were provided for the Committee.

A Committee member asked about insurance that the State Fair has for this kind of incident. Mr. Stoecklein replied that the Fair is self-insured as a state agency. Out-of-pocket expense is what the State Fair looked at when considering Ms. Gadberry's complaint.

*Following discussion, the Joint Committee recommended that Claim No. 6128 be denied.*  
(See section captioned "Committee Action and Recommendation.")

The Chairperson opened the telephone hearings on the claims filed by inmates at **Hutchinson Correctional Facility**.

**DaQuan C. Dean summarized Claim No. 6137** against Hutchinson Correctional Facility for \$49.45 for loss of property. He explained that when he returned from the yard, his cell door was standing open and no guard present. No other doors were open. A guard said someone had been working in his cell and had left his door open. No locks are allowed in maximum custody, so he was not able to lock up his property. His shoes and a couple of canteen items were missing.

Libby Snider, KDOC, stated that inmates own property at their own risk. Mr. Dean had submitted his claim internally, and this is the first she was aware that he was not permitted a lock to protect his property. She recommended that the claim be denied.

Mr. Dean responded by saying that he had just received the forms to complete for appeal, therefore he had not had the opportunity to respond to the Secretary of Corrections until now to inform him that the cabinet in his cell could not be locked.

*Following discussion, the Joint Committee recommended that Claim No. 6137 be allowed for \$49.45. (See section captioned "Committee Action and Recommendation.")*

**Greg A. Weir summarized Claim No. 6129** against KDOC for \$500,000 for personal injury. Mr. Weir explained that for three years a number of incidents have transpired: people have been slandering him and calling him names; he asked for a diabetic test which the facility denied him and gave him a DR; money from a friend was sent to him, but it was returned rather than put in his account; money was fraudulently taken out of his account on March 6 and March 7, 2006; and the facility charged him with four counts of battery for throwing urine and feces and penalized him. He said ". . . it's going to get me killed . . . It is a female voice . . . from I and I."

Libby Snider, KDOC, stated that there is no effective way to investigate this claim. There are no dates, staff names, grievances, property claims, or correspondence regarding his claims. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6129 be denied. (See section captioned "Committee Action and Recommendation.")*

**Richard Blanchette summarized Claim No. 6142** against KDOC for \$150.67 for loss of property. Upon being sent to segregation at the same time as his cell mate, Mr. Blanchette's property and his cell mate's property was packed out of their cell. Mr. Blanchette's cell mate had the same last name, therefore their property got mixed together, accidentally.

Libby Snider, KDOC, stated that officers and the Misters Blanchette had the opportunity to separate the inventories. He did sign that he got his property returned. In no instance did he say property was missing. She recommended that the claim be denied.

Mr. Blanchette explained that the first inventory sheet does not exist; the second property inventory sheet contains check-marks indicating missing items.

*Following discussion, the Joint Committee recommended that Claim No. 6142 be denied. (See section captioned "Committee Action and Recommendation.")*

**Carl Patillo, Durable Power of Attorney for claimant Mary Patillo, appeared for and summarized Claim No. 6171** against Kansas Department of Social and Rehabilitation Services for \$700,000 for personal injury. He said she had been discriminated against and harassed for seven years in her workplace, which caused her to have a mental breakdown. Workman's compensation will not pay. She currently is under the care of three different doctors. She has a case pending with the Equal Employment Opportunity Commission (EEOC).

Chairperson Owens explained to Mr. Patillo that due to the ongoing EEOC suit, the Claims Committee is not able to hear the claim at this time.

*Following discussion, the Joint Committee recommended that Claim No. 6171 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")*

The Chairperson opened the telephone hearings on **former inmates**.

**Angela Brown summarized Claim No. 6123** against Topeka Correctional Facility for \$57,500 for personal injury. She explained that she was removed from work release and received a DR for escape and "dealing and trading." She is asking for lost wages of \$7,500 due to being removed from work release and punitive damages of \$50,000. She and the inmate with whom she worked were sitting in front of their work area eating hamburgers. She was at her job, so there was no "escape" and was not aware that she should not have accepted the hamburger from the other inmate. She was not out of place.

Libby Snider, KDOC, stated the dealing and trading charge was because the other inmate had purchased Burger King hamburgers and had given Ms. Brown one of them. No exchange of any property is allowed. The aggravated escape charge was because they were not to have gone to Burger King. Inmates do not have the "right" to a job. It is a privilege. She recommended that the claim be denied.

A Committee member asked Ms. Brown if she was given lunch when on work release. Ms. Brown replied that they were given \$7.00 a day for lunch and could have an employee get it for them.

*Following discussion, the Joint Committee recommended that Claim No. 6123 be denied. (See section captioned "Committee Action and Recommendation.")*

**Cindy Lash, KLRD, summarized Claim No. 6136 of Lyle Parker** against KDOC for \$13.10 for loss of property. Mr. Parker was transferred from Lansing Correctional Facility to Winfield Correctional Facility. When his property arrived, his fan was broken.

Libby Snider, KDOC, responded that the documentation comes to the same conclusion and recommended that the claim be allowed.

*Following discussion, the Joint Committee recommended that Claim No. 6136 be allowed for \$13.10. (See section captioned "Committee Action and Recommendation.")*

**Cindy Lash, KLRD, summarized Claim No. 6143 of Hassion L. Price** against Lansing Correctional Facility for \$48.00 for loss of property. His property was not inventoried when he was sent to court. When he returned he received his property with some items missing.



Libby Snider, KDOC, recommended that the claim be allowed for \$20.91, taking depreciation into consideration. No property inventory was done when he was transferred, and other inmates had access to Mr. Price's property for a time.

*Following discussion, the Joint Committee recommended that Claim No. 6143 be allowed for \$20.91 from Lansing Correctional Facility. (See section captioned "Committee Action and Recommendation.")*

After Committee discussion, it was determined that the next Committee meeting will be scheduled for Thursday and Friday, November 5 and 6, 2009. Thursday's meeting will begin at 10:00 a.m. and Friday's meeting will begin at 9:00 a.m. The meeting will be held in Room 535-N of the Capitol Building.

The meeting was adjourned at 12:30 p.m.

Prepared by Kathy Letch  
Edited by Cindy Lash

Approved by Committee on:

November 2, 2009

(Date)





# Kansas Legislator Briefing Book 2009

## State Government

T-4

Joint Committee  
on Special Claims  
Against the State

Other State  
Government reports  
available

T-1

Veterans and Military  
Personnel Issues

T-2

State Employee  
Issues

T-3

Indigents' Defense  
Services

T-5

Capitol Restoration

Cindy Lash,  
Research Analyst  
785-296-3181  
CindyL@kld.state.ks.us

## State Government

### T-4 Joint Committee on Special Claims Against the State

The Joint Committee on Special Claims Against the State originated near the turn of the twentieth century to furnish a venue for persons who thought they were injured in some manner by the activity of a state agency.

The statutory purpose of the Joint Committee on Special Claims is to hear claims for which there is no other recourse to receive payment. The Joint Committee is the place of last resort when there is no other way of appropriating money to pay a claim against the state.

The Joint Claims Committee was the only venue available for these purposes until passage in the early 1970s of the Tort Claims Act which allowed state agencies to accept a limited amount of liability. A Tort Claims Fund established in the Attorney General's Office now offers recourse for other actions brought against the state. The state does assume certain responsibility for its actions under the tort claims statutes, however, there are certain areas under those statutes wherein the state has no liability.

The fact that state agencies are immune under statute does not mean that a citizen cannot be injured by some action of the state. Because state agencies are immune, a potential claimant may have no remedy other than coming to the Joint Committee. Thus, the claims which come to the Joint Committee involve an issue of equity and do not always involve the issue of negligence on the part of the state or a state employee.

### Committee Membership

The Joint Committee on Special Claims Against the State has 13 members consisting of five members of the Senate and eight members of the House of Representatives. Two House members and two Senate members must be attorneys licensed to practice law in the State of Kansas. Additionally, at least one Representative shall be a member of the House Committee on Appropriations and at least one Senator shall be a member of the Senate Committee on Ways and Means. The

chairpersonship of the Joint Committee alternates between the House and Senate members at the start of each biennium. The members appointed from each house shall include minority party representation. Any seven members of the Joint Committee constitutes a quorum. Action of the Joint Committee may be taken by an affirmative vote of a majority of the members present, if a quorum is present.

## **Claims Process**

The claimant starts the claims process by completing and submitting a claim form.

The claim form is available on the Internet through both the Legislature's website and the Legislative Research Department's website, or can be requested in hard copy by contacting the Legislative Research Department.

None of the rules of evidence apply to the Joint Committee. It is an informal environment which contains no impediments to getting the issues on the table. Therefore, the Joint Committee is considered a court of equity.

The claim form includes a portion in which the claimant indicates whether he or she wishes to appear in person for the hearing. In-person hearings for claimants who currently are incarcerated are conducted via telephone conference.

Claimants who request to appear in person for their hearing are notified 15 days in advance of the hearing via certified mail as prescribed in KSA 46-914. Additionally, the claim forms include a portion that must be notarized prior to consideration of the claim.

The Joint Committee is specifically prohibited by KSA 46-913 from hearing claims involving canceled state warrants if the claim is filed more than five years after the warrant was originally issued.

The 2005 Legislature amended KSA 46-921, which authorizes the Division of Accounts and Reports to make payment for a canceled warrant, except the authorization expires four years from the date of cancellation of the warrant. Any such payment shall be in the amount denoted on the canceled warrant less 10% or \$30, whichever amount is less. All claims under this section are paid from the Canceled Warrants Payment Fund.

State agencies and employees are charged with providing the Joint Committee with information and assistance as the Committee deems necessary.

The Joint Committee is authorized by KSA 46-917 to adopt procedural guidelines as may be necessary for orderly procedure in the filing, investigation, hearing, and disposition of claims before it. The Joint Committee has adopted twelve guidelines to assist in the process. These guidelines are available on the Internet through both the Legislature's website and the Legislative Research Department's website, or can be requested in hard copy by contacting the Legislative Research Department.

The Joint Committee traditionally holds hearings during an Interim Session from June through December of the year. The Committee is mandated by statute to hear all claims filed by November 1st during that Interim Session.

The Committee can meet during the Legislative Session only if both the President of the Senate and the Speaker of the House of Representatives authorize the meetings pursuant to KSA 46-918.

## Committee Recommendations

The Joint Committee makes recommendations regarding the resolution of the claims, and is not bound by rules of evidence. The Committee is required by KSA 46-915 to notify the claimants of its recommendation regarding the claim within 20 days of the claims hearing.

The Joint Committee submits its recommendations for payment of claims it has heard in the form of a bill presented to the Legislature at the start of each session.

## Claims Payments

Payment for claims that are approved by the Legislature and signed into law by the Governor are paid by the Division of Accounts and Reports. Prior to such payment being made, claimants are required to sign a release.

When an inmate owes an outstanding unpaid amount of restitution ordered by a court, money received by the inmate from the state as a settlement of a claim against the state is withdrawn from the inmate's trust account as a set-off per KSA 46-920.

For more information, please contact:

Cindy Lash, Research Analyst  
[CindyL@klrd.state.ks.us](mailto:CindyL@klrd.state.ks.us)

Amy Deckard, Senior Fiscal Analyst  
[AmyD@klrd.state.ks.us](mailto:AmyD@klrd.state.ks.us)

Kansas Legislative Research Department  
300 SW 10th Ave., Room 010-West, Statehouse  
Topeka, Kansas 66612  
Phone: (785) 296-3181  
Fax: (785) 296-3824

1-3

## **Background**

The Joint Committee on Special Claims Against the State (Claims Committee) is authorized by statute to subpoena persons or documents, but the process established by law seems to discourage committees from using this power liberally.

The Claims Committee is included in the definition of an investigating committee under KSA 46-1001. An investigative committee is authorized to utilize compulsory process (KSA 46-1002) and such statute further authorizes committees to go into executive session and determine which testimony may be published or retained in secret.

Compulsory process is defined in statute (KSA 46-1003) to include exercising subpoena power including a subpoena or subpoena duces tecum. The latter requires a person to deliver specified documents to the Claims Committee. KSA 46-1004(c) states that the Claims Committee is only authorized to exercise compulsory process when specifically authorized to do so by the Legislative Coordinating Council (LCC). The Claims Committee would need to submit a written request to the LCC to proceed with the use of compulsory process for a specific issue.

Once authorized by the LCC to use the compulsory process, a **majority of all members** of the Claims Committee would have to vote in favor of issuing a subpoena or subpoena duces tecum pursuant to KSA 46-4006. A person who appears before the Claims Committee in response to a subpoena would receive the same compensation and allowances as someone appearing before the District Court.

The chair or vice chair of the Claims Committee would be required to administer an oath or affirmation prior to receiving testimony pursuant to KSA 46-1007. A court reporter is required to be present to record all testimony given under oath pursuant to KSA 46-1011.

Reimbursement of expenses associated with the use of the compulsory process shall be processed by Legislative Administrative Services.

KSA 46-1008 prescribes that the subpoena or subpoena duces tecum shall be served three days prior to the date of the hearing, unless the majority of the committee votes that is not practical. The subpoena shall be signed by the chair or vice chair to be issued. The individual who shall serve the subpoena shall be decided by the chair, vice chair or their designee.

KSA 46-1010 provides that if the witness requests information regarding authorization for the subpoena, that shall be provided to them. Individuals appearing as witnesses are entitled to counsel and such counsel may cross examine witnesses before the committee pursuant to KSA 46-1012. Additionally, the witness may file a written statement in addition to appearing before the committee and that may become part of the record pursuant KSA 46-1013.

Contempt of the legislature, as defined in KSA 46-1014 is a Class A misdemeanor, punishable by up to one year in jail or a \$1,500 fine or both. If the Committee believes that perjury has occurred while a witness is under oath, KSA 46-1015 indicates that the issue shall be referred to the Speaker of the House of Representatives or President of the Senate. It could also be referred to the Attorney General for criminal prosecution.

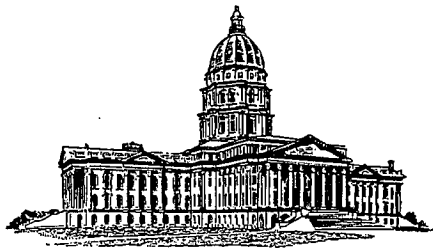
Proposed rules regarding compulsory process

1. The Claims Committee can only utilize the power of compulsory process when specifically authorized to do so by the Legislative Coordinating Council.
2. A motion from a committee member to request authorization from the LCC to utilize the power of compulsory process to obtain documents shall only be entertained when:
  1. The information sought is believed to be necessary to fairly and accurately deliberate a claim currently pending before the committee.
  2. The claimant has no other course of action to pursue compensation for his or her claim, including any applicable administrative hearings or filing a suit in the district court.
  3. The claimant has provided sufficient evidence detailing his or her requests to obtain specific documentation from a state agency, entity or contractor, including evidence of requests for documents under the Kansas Open Records Act, including all correspondence related to the claimant's attempt to obtain specific documents on their own.
  4. The claimant has provided an affidavit, sworn and notarized, stating what specific documents he or she has attempted to obtain to support his or her claim, and has detailed in said affidavit the specific information believed to be contained in such documents, and how that information, if presented to the Committee, would strengthen the information in the claim as filed.
3. A motion from a committee member to request authorization from the LCC to utilize the power of compulsory process to obtain testimony of a person shall only be entertained when:
  1. The information sought is believed to be necessary to fairly and accurately deliberate a claim currently pending before the committee.
  2. The claimant has no other course of action to pursue compensation for his or her claim, including any applicable administrative hearings or filing a suit in the district court.
  3. The claimant has provided sufficient evidence detailing his or her attempts to obtain an affidavit from the specific witness.
  4. The claimant has provided an affidavit, sworn and notarized, stating what specific information the witness will attest to under oath, and how that information, if presented to the Committee, would strengthen the information in the claim as filed.
4. In deliberating any such motion to request LCC authorization for the power of compulsory process, the committee shall take into consideration, that the Joint Committee on Special Claims Against the State does not operate under the rules of procedure for civil or limited actions, and is outside the scope of the Kansas Administrative Hearings Act. A claimant is not entitled to any power of compulsory process initiated by the Committee, and the Committee shall only request authorization from the LCC to utilize this power when a majority of a quorum of the committee believes that compelling witnesses or documents is absolutely necessary for the Committee to make a recommendation to the Legislature as to the disposition of the claim.
5. If the Committee is specifically authorized by the LCC to use the power of compulsory process on a specific claim, the committee shall only issue a subpoena or subpoena duces tecum upon a majority vote of all members of the committee.

2-2



**MARY ANN TORRENCE**, ATTORNEY  
REVISOR OF STATUTES  
**JAMES A. WILSON III**, ATTORNEY  
FIRST ASSISTANT REVISOR  
**GORDON L. SELF**, ATTORNEY  
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES  
KANSAS LEGISLATURE

Legal Consultation—  
Legislative Committees and Legislators  
Legislative Bill Drafting  
Legislative Committee Staff  
Secretary—  
Legislative Coordinating Council  
Kansas Commission on  
Interstate Cooperation  
Kansas Statutes Annotated  
Editing and Publication  
Legislative Information System

TO: Joint Committee on Special Claims Against the State  
FROM: Michael K. Corrigan, Assistant Revisor of Statutes  
DATE: June 24, 2009  
SUBJECT: Matters relating to the Joint Committee on Special Claims  
Against the State

Meetings.

Generally, the Joint Committee on Special Claims Against the State (Joint Committee) meets during the interim on call of the Chairperson as authorized by the Legislative Coordinating Council. [K.S.A. 46-912] The Joint Committee may consider claims filed after the statutory deadline for filing claims to be considered in the interim (November 1) during session only if the President of the Senate and the Speaker of the House of Representatives authorizes the holding of meetings for such purpose. [K.S.A. 46-918]

Committee.

The Joint Committee is comprised of 13 members, 8 from the House or Representatives and 5 from the Senate. Not less than two members from each body shall be attorneys licensed to practice law in Kansas. K.S.A. 46-912 mandates that not less than one House member shall be a member of the House Committee on Appropriations and that not less than one Senate member shall be a member of the Senate Committee on Ways and Means. Any seven members shall constitute a quorum. Any action of the Joint Committee may be taken by an affirmative vote of a majority of members present if a quorum is present. [K.S.A. 46-912]

Joint Committee on  
Special Claims Against the State  
June 29, 2009  
Attachment 3

Claims.

K.S.A. 46-913 prescribes that a claimant shall file a claim in writing upon a form provided by the Joint Committee and the information required to be provided by the claimant. Upon filing of the claim the Joint Committee may inform the claimant in writing of additional information the Joint Committee needs to take action on the claim. No claim based on a cancelled state warrant which is filed more than 5 years after the warrant was originally issued may be considered by the Joint Committee. [K.S.A. 46-913(c)] Legislators have offered amendments in committee or on the floor to pay such claims in previous years.

Hearings.

If a claimant requests a hearing, a hearing shall be held and the claimant and the agency, if any, shall receive at least 15-days notice by certified mail. The Joint Committee shall not be bound by strict rules of evidence, except when specifically required by committee rule. All state employees and officers shall provide assistance as deemed necessary by the Joint Committee to investigate and make determinations concerning claims. [K.S.A. 46-914]

Claims Bill.

The Joint Committee shall make a recommendation and submit it in writing to the claimant within 20 days after the Joint Committee makes its determination. In death and disability cases the Joint Committee may use the workers compensation act as a guideline. The claims bill is required to be introduced by the Joint Committee and referred for action to the Senate Committee on Ways and Means or to the House Committee on Appropriations, depending on which house it is introduced in. [K.S.A. 46-915] By recent custom, the claims bill has been introduced in the Senate in even numbered years and the House of Representatives in odd numbered years. The claims bill has contained a subsection directing the director of accounts and reports to secure prior to the payment of any amount to any claimant, other than amounts authorized to be paid pursuant to section 2 as motor-vehicle fuel tax refunds or as transactions between state agencies as provided by this act, a written release and satisfaction of all claims and rights against the state of Kansas and any agencies, officers and employees of the state of Kansas regarding their respective claims. [K.S.A. 46-924]

Authority to introduce legislation.

K.S.A. 46-915 states that "all recommendations for awards shall be included in a bill or bills". This provision is the only statutory authority for the Joint Committee to introduce legislation. Although this language has been interpreted to allow

the Joint Committee to introduce legislation other than the claims bill in the past, the Revisor of Statutes has interpreted this language to mean that the Joint Committee is precluded from introducing bills other than the claims bill.

Motor vehicle fuel tax refunds.

Section 2 of the claims bill has, by custom, contained authority for the Department of Revenue to pay amounts for motor vehicle fuel tax refunds not filed within the statutory filing period prescribed by K.S.A. 79-3458, and amendments thereto. K.S.A. 79-3453 allows a refund to any person who uses any motor vehicle fuels on which the tax has been paid for any purpose other than operating a motor vehicle on the public highways. The Joint Committee usually receives the motor vehicle fuel tax refund list from the Department of Revenue at the end of the interim.

Payments by State Agencies.

The head of any state agency is authorized to make payment to state officers and employees for personal injury or property damage which occurred while such officer or employee is acting within the scope of employment if the property loss or injury did not occur because of the claimant's negligence in the opinion of the head of the agency. The state agency head may not pay any claim in excess of \$1,000, except that the vice-chancellor of the Kansas University Medical Center and the superintendent of the Kansas highway patrol may pay not more than \$2,500 for claims upon certain findings. No amount shall be paid on a claim by a person who is an insurer making a claim as a subrogee. [K.S.A. 46-922] The Secretary of Corrections may reimburse inmates for property damage or personal injury in an amount not to exceed \$500. K.S.A. 46-920 prescribes the order of priority of set-offs if the inmate owes restitution.

Cancelled warrants.

K.S.A. 10-811 states that when a warrant is not paid one year after the issuance of the warrant, the director of accounts and reports may cancel such warrant. In practice, although the authority to cancel a warrant is discretionary, the director of accounts and reports generally cancels state warrants not claimed within one year of issuance. Several claimants a year file claims with the Joint Committee requesting payment for cancelled warrants because there is no other legal authority to pay such warrants.

Exhausting administrative remedies.

During the course of Joint Committee claims hearings issues concerning whether a claimant must file a claim with the Joint Committee to exhaust administrative remedies before proceeding in

state or federal court and other related issues have frequently come up. It is a general rule that an action against a state or a state officer may not be maintained unless all prescribed conditions precedent have been fully performed. *American Mut. Liability Ins. Co. v. State Highway Comm.*, 146 Kan. 239, 243, 69 P.2d 1091 (1937). Unless a state or federal law, as the case may be, prescribes a requirement that a claim shall be filed with the Joint Committee before a court action may be maintained, filing a claim with the Joint Committee is not a condition precedent to filing a state or federal lawsuit or action. An example of a condition precedent to sue in state court is K.S.A. 12-105b(d) which prescribes that any person having a claim against a municipality must provide written notice before commencing a court action in accordance with K.S.A. 12-105b.

#### Compulsory Process.

Certain legislative committees, or any authorized subcommittee thereof, may exercise compulsory process as an investigating committee in connection with "any authorized subject of study" without further authorization. Please note that the determination of an "authorized subject of study" and the attendant paperwork required for the proper exercise of compulsory process requires a certain amount of preparatory time and should involve considerable staff consultation in advance. The Joint Committee may exercise compulsory process in connection with any authorized subject of study only when specifically authorized by the Legislative Coordinating Council. [K.S.A. 46-1004][See, generally, article 10 of chapter 46 of the Kansas Statutes Annotated]

#### Open Meetings.

Meetings of the Joint Committee are required to be subject to the open meetings law. [K.S.A. 75-4317 et seq., and amendments thereto] The Committee may meet in a closed or executive meeting only in certain cases prescribed by statute to discuss certain subjects:

- (1) Personnel matters of nonelected personnel;
- (2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;
- (3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;
- (4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;
- (5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;
- (6) preliminary discussions relating to the acquisition of

real property;

(7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804 and amendments thereto [RE: Kansas Racing and Gaming Commission];

(8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (d)(1) of K.S.A. 38-1507 and amendments thereto or subsection (e) of K.S.A. 38-1508 and amendments thereto [RE: Children in need of care, abuse or neglect information];

(9) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (j) of K.S.A. 22a-243 and amendments thereto [RE: State Child Death Review Board];

(10) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 44-596 and amendments thereto [RE: Workers Compensation Advisory Council];

(11) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (g) of K.S.A. 39-7,119 and amendments thereto [RE: Medicaid Drug Utilization Review Board];

(12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;

(13) matters relating to security measures, if the discussion of such matters at an open meeting would jeopardize such security measures, that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building or facility or the information system of a public body or agency; or (D) private property or persons, if the matter is submitted to the agency for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments;

(14) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments thereto; and

(15) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2008 Supp. 75-7427, and amendments thereto.

The above provisions are the exceptions to the general requirement that all meetings be open meetings. No binding action may be taken during closed or executive recesses, and such recesses may not be used as a subterfuge to defeat the purposes of the act. A precisely worded motion, meeting the statutory requirements, should be adopted and made a permanent part of the Committee minutes for each instance when the Committee goes into a closed

meeting.

As you might expect, these provisions have been the subject of several Attorney General opinions and court cases. Please note that the determination of whether a matter falls within one of the enumerated exceptions to the open meeting requirement, the attendant questions of who may be present and the correct motion required to properly authorize a closed meeting require a certain amount of preparatory time and should involve considerable staff consultation in advance. This discussion is not intended to be a complete description of all questions that will need to be answered regarding any proposed closed meeting. A careful legal analysis of the circumstances in each case is required to be sure the statute is complied with and potential penalties are not incurred. [K.S.A. 75-4320]

A further development is the adoption of Joint Rule 5 in 2009 SCR 1601:

**Joint Rule 5.** Any standing committee of the House of Representatives, any standing committee of the Senate, the Legislative Coordinating Council, any joint committee of both houses of the legislature, any special or select committee of the House of Representatives or the Senate, the House of Representatives in session, the Senate in session or a joint session of the House of Representatives and the Senate may meet in closed, executive session for the purpose of receiving information and considering matters relating to the security of state officers or employees, or both, or the security of buildings and property under the ownership or control of the State of Kansas.

Other legislation concerning the Joint Committee.

In the 2009 regular session 2009 Senate Bill No. 93 was introduced by the Committee on Ways and Means to reduce the number of members of the committee from 13 to 7 and to reduce the number of attorney members on the Joint Committee to not less than one from each body of the legislature. The bill passed the Senate and was referred to the House of Representatives Committee on Judiciary where no action has been taken. The reduction of attorney members on the Joint Committee has been addressed by legislation several times during the last ten years.

**Motor Fuel Refund Overview**  
**Special Claims Committee Update**  
**June 29, 2009**

A Motor Fuel Refund is a refund of tax paid on Motor Vehicles Fuels or Special Fuels used off-highway. The customer must apply for a refund permit and include a \$6.00 fee. The permit is valid for 3 years and can be renewed in 3 year increments with the \$6.00 fee.

Approximately 6,000 refund claims are received each year.

Each claim received is manually reviewed for licensing requirements, calculation errors, and proof of tax paid. This is very labor intensive due to the number of fuel receipts or statements submitted. Each Refund request filed must be at least \$25.00. Per K.S.A. 79-3458 such claim for refund must be filed within one year after the date of purchase of the motor-vehicle fuels or special fuels on which a tax refund is claimed. We use the post mark date on envelope to ensure compliance of year statute. (Example a claim filed and mailed today June 29, 2009 could have fuel receipts that went back through June 29, 2008.) Any claims received with fuel receipts older than one year are denied. The customer's recourse is the Legislative Claims process. If a refund is denied because of the one year statute of limitations, the denial letter includes reference to the Legislative Claims process and a Joint Committee on Special Claims against the State form is enclosed.

Kansas Department of Revenue  
Motor Fuel Refund  
Patricia Platt  
Public Service Administrator II  
(785) 291-3670

**Joint Committee on**  
**Special Claims Against the State**  
**June 29, 2009**  
**Attachment 4**

Kansas Department  
Of Corrections

SELECTED  
REGULATIONS  
AND RULES

Prepared For  
The Joint Committee  
On Special Claims Against  
The State

June 2009

Joint Committee on  
Special Claims Against the State  
June 29, 2009  
Attachment 5



KANSAS ADMINISTRATIVE REGULATIONS

\*\*\* THIS DOCUMENT IS CURRENT THROUGH KANSAS REGISTER VOLUME 28, \*\*\*  
\*\*\* NUMBER 13 MARCH 26, 2009 \*\*\*

AGENCY 44 DEPARTMENT OF CORRECTIONS  
ARTICLE 5. INMATE MANAGEMENT

K.A.R. § 44-5-111 (2009)

**44-5-111. Disposition of contraband.**

(a) Contraband shall be divided into three (3) categories as follows:

- (1) Items which are contraband because mere possession is illegal in the state of Kansas or the United States.
- (2) Items, including money, which are made contraband in the prison environment by the laws of the state of Kansas, by the regulations of the secretary of corrections, or by the orders of a principal administrator.
- (3) Items which are neither illegal in themselves nor defined as contraband in a prison under all circumstances, but which because of their misuse or excessive accumulation, or because they constitute the subject of a rule violation or illegal act, have become contraband.

(b) Upon admission to the department of corrections, an inmate's property is restricted. Money and any property not permitted in the facility is disposed of according to the regulations of the secretary of corrections.

(c) If, at any time following admission to any correctional facility, the inmate is found in possession of any item which by law or regulations is contraband, including money, such items shall be confiscated and the inmate shall forfeit all rights to such item, and, where applicable, it shall be held as evidence in a prosecution for a crime or an administrative disciplinary process, or both. Following the completion of any prosecution and disciplinary proceedings, the contraband, depending on type, shall be disposed of as follows:

- (1) If inherently illegal under laws of the United States or Kansas, it shall be left in the custody of local officials or destroyed, and a record shall be made and retained at the facility for three (3) years.
- (2) If illegal only in the prison environment, in lieu of both options in (c) (1) above, it may be donated to any charitable not-for-profit corporation, and a record shall be made and retained at the facility for three (3) years; except that money which shall be placed in the inmate benefit fund.

(d) When it is determined that property held by an inmate should be confiscated because of its misuse, or excessive accumulation, but the property is otherwise not a violation, the following action shall be taken.

- (1) If the inmate can show ownership of the property and the property has not been the subject of any rule violation, the property may be sent out of the correctional facility to some person designated by the inmate at the inmate's expense.
- (2) If the property constitutes the subject of some violation, it shall be held as evidence in a prosecution or disciplinary hearing and thereafter may be disposed of by donation to any charitable not-for-profit corporation and a record made and retained for three (3) years, or by sending it to some person outside the correctional facility at the inmate's expense and at the principal administrator's discretion.
- (3) If the property does not belong to the inmate, the property shall be returned to the rightful owner if such owner can be determined. If the property was stolen, it may be used as evidence in a disciplinary hearing or prosecution before being returned to its rightful owner. If the property was the subject of a loan or other violation of the property registration rules, or if the rightful owner of the property cannot be determined, then the property may be donated to any charitable not-for-profit corporation and a record made and retained for three (3) years.

(e) The inmate shall be given an opportunity to explain any mitigating or extenuating circumstances which would excuse his or her possession of the contraband. The principal administrator shall make the final decision.

(f) If a finding is made that the item is not contraband, it shall be returned to the inmate.

Authorized by K.S.A. 21-3826, 75-5254, 75-5257, K.S.A. 1979 Supp. 21-4206, 75-5205, 75-5210, 75-5210(f), 75-5252;  
effective May 1, 1980.

**44-12-201. Registration and use of personal property.**

(a) It shall be the responsibility of each inmate to make certain that any items of personal property in the inmate's possession as designated by department of corrections internal management policy and procedure or orders of the warden are properly registered. Each inmate shall be required, upon demand, to produce any personal property registered in the inmate's name or issued to the inmate, unless previously reported lost according to proper procedure.

(b) Violation of this regulation shall be a class II offense.

This amendment shall be effective on and after February 15, 2002.

Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992; amended Feb. 15, 2002.

**44-16-102. Reporting loss or damage to property.**

(a) Each inmate shall report every loss of or damage to the inmate's own property immediately. In reporting property damage or loss, inmates shall use applicable avenues of redress as established by internal management policies and procedures. These procedures shall be strictly followed.

(b) The facility warden shall not be required to accept any property loss or damage claim unless it is made within 15 working days of the discovery of the loss. The warden shall not be required to accept any claim at all if both of the following conditions are met:

(1) The claim is submitted later than one year and one day after the date of the loss, regardless of when the loss was discovered.

(2) The inmate could have discovered the loss by exercising reasonable effort to know the status of the inmate's property and money.

This amendment shall be effective on and after February 15, 2002.

Authorized by K.S.A. 75-5251; implementing K.S.A. 46-920, 75-5254, 75-5255, 75-5257, 75-5210; effective May 1, 1980; amended May 1, 1984; amended Feb. 15, 2002.


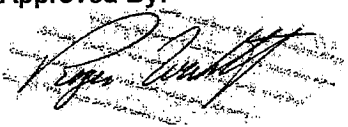
**44-16-105. Property at own risk.**

An inmate shall be deemed to own personal property at the inmate's own risk. Loss or damage of personal property shall not provide a basis for recovery on a claim unless the loss or damage directly resulted from the intentional or negligent act or omission of a correctional employee and was reported according to applicable internal management policies and procedures. This amendment shall be effective on and after February 15, 2002.

Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1984; amended Feb. 15, 2002.

5-3

# KANSAS DEPARTMENT OF CORRECTIONS

	<b>INTERNAL MANAGEMENT POLICY AND PROCEDURE</b>	SECTION NUMBER	PAGE NUMBER
		01-117	1 of 4
<b>Approved By:</b>  Secretary of Corrections		<b>SUBJECT:</b>  <b>ADMINISTRATION: Claims Procedure for Department Employees and the General Public</b>	
		Original Date Issued:	08-15-82
		Current Amendment Effective:	02-23-09
		Replaces Amendment Issued:	05-21-02

## POLICY

Staff assistance and all necessary forms shall be provided to departmental personnel and the general public in filing a claim against the State for damaged/lost property or injury. (ACO 2-1B-11; ACI 3-4041; APPFS 3-3046) All claims shall be investigated and processed within reasonable time limits.

Claims may be paid to employees and/or members of the general public for personal injury or property damage or loss in a manner that is consistent with applicable statutes. Payments shall not be made to: Employees if they themselves were negligent in the damage/loss of property or personal injury; or insurers who make claims as subrogees for amounts paid to insured parties. Claims shall be promptly paid from the operating budget for the correctional facility or office at which the loss, damage, or injury occurred.

## DEFINITIONS

Departmental personnel: All Department of Corrections personnel, and not contract personnel.

General public: All other persons that are not departmental personnel or inmates.

Joint Committee on Special Claims Against the State: The Kansas Legislative committee reviewing claims against the Department of Corrections.

## PROCEDURES

### **I. Claims Limitations and Responsible Parties**

- A. Departmental personnel and members of the general public may file a claim for property damage/loss or personal injury (Attachment A, Form #01-117-001) with the Secretary of Corrections.
  - 1. Claimants asserting claims for work related injuries shall be referred to the facilities or office's of the Human Resource Manager for assistance in filing the appropriate Workers' Compensation forms.
  
- B. Although an actual claim may be in excess of \$1,000, the Secretary may attempt to resolve the claim by offering payment at an amount equal to or less than this maximum amount.
  - 1. The claimant shall have the right to accept this offer or pursue the claim with the Joint Committee on Special Claims Against the State.
  
- C. A property damage/loss of personal injury claim may also be filed with the Joint Committee on Special Claims Against the State in lieu of or subsequent to filing a claim with the Secretary of Corrections.

5-4

- D. Any person whose claim is denied by the Secretary of Corrections, or who rejects an offer of settlement, may re-file their claim with the Legislative Joint Committee on Special Claims Against the State.
- E. Property damage/loss or personal injury claims that cannot be resolved for an award of \$1,000 or less may be filed with the Joint Committee on Special Claims Against the State if the claimant elects to do so.
- F. Persons filing a claim with the Legislative Joint Committee on Special Claims Against the State shall use the form provided by the committee for that purpose entitled Personal Injury or Property Damage Claim Form (Attachment B, Form # 01-117-002). Such a claim shall be filed with the committee directly.

## II. Claims Initiation Process

- A. All wardens, parole directors and Central Office division supervisors shall ensure that a supply of current claim forms are made available to staff and the general public interested in filing a claim against the state and/or the Secretary of Corrections (Attachments A and B).
- B. Persons filing a claim with the Secretary of Corrections shall complete Section I of the Staff - Citizen Property/ Personal Injury Claim form (Attachment A).
- C. All claims shall be made under oath and notarized.
- D. Those filing a claim with the Secretary shall submit the completed form to the warden, parole director, or Central Office division supervisor at the office or facility where the loss, damage, or injury is alleged to have occurred (or where the allegedly negligent employee works, in situations where the loss, damage, or injury is not alleged to have occurred on facility or office grounds).
  - 1. When a property or personal injury claim is made for a loss, which occurred at another facility or office, the warden, parole director, or Central Office division supervisor shall, within two (2) calendar days of receipt of the claim, forward a copy of the claim to the warden, parole director, or Central Office division supervisor of the other facility or office.
    - a. The warden, parole director, or Central Office division supervisor of the other facility or office shall then process the claim as the administrator/supervisor would process all other claims received.
- E. Those forms submitted to the warden, parole director, or Central Office division supervisor shall be assigned a unique number, which shall be shown on the form.
- F. Each facility and office shall establish a claims-log showing the unique number assigned to the claim and the date the number was assigned.
- G. Claims shall be entered into the Management Information System.

## III. Investigation Process

- A. The warden, parole director, or Central Office division supervisor shall assign the claim for investigation as soon as possible. Requests for investigation by the Enforcement, Apprehensions, and Investigations Division will be handled as defined by IMPP 22-103. The following actions may be taken in the investigation of all claims:
  - 1. When possible, interview and obtain a statement from the person making the claim.

2. Interview officers and employees who may be involved or have information regarding the claim.
  3. Interview other witnesses who may have information regarding the claim.
  4. Review appropriate records, reports, and logs pertaining to the claim.
  5. Submit copies of all records, reports, logs, and statements with the investigation report on the claim to the warden, parole director, or Central Office division supervisor or the warden's, parole director's or Central Office division supervisor's designee.
- B. This investigation shall be completed within ten (10) calendar days after receipt of the claim unless extended by the warden, parole director, or Central Office division supervisor and/or the warden's, parole director's, Central Office division supervisor's designee for an additional twenty (20) calendar days for good cause. The claimant shall be notified in writing of the reason for any extension.
- C. Upon receipt of the investigation report, the warden, parole director, or Central Office division supervisor shall make a recommendation to the Secretary of Corrections regarding the disposition of the claim.
- D. Final action on all claims shall be made by the Secretary.

#### **IV. Notification of Decision**

- A. Upon reaching a decision, the Secretary shall return the original claim form to the appropriate warden, parole director, or Central Office division supervisor for processing as follows:
1. If the claim is rejected, the original shall be returned to the claimant and a copy retained by the warden, parole director, or Central Office division supervisor.
  2. If a settlement is approved by the Secretary the original copy of the claim shall be sent to the claimant with instructions to sign it as an indication of acceptance and return it to the facility of origin.
    - a. The claimant shall also supply his or her social security number so that the claim may be processed by the Division of Accounts and Reports.

#### **V. Acceptance/Rejection and Payment Processing**

- A. If the settlement is accepted by the claimant, by way of signature on the claim form, the facility or office business manager shall submit the appropriate voucher form (DA 103 or DA 120) to the Accounting Control and Services Section of the Division of Accounts and Reports for payment.
- B. If the settlement is rejected by the claimant, a copy of the claimant's rejection statement shall be maintained in the facility or office file.
- C. The claimant shall be advised of his/her right to pursue the claim through the Legislative Joint Committee on Special Claims Against the State and the appropriate form, Attachment B, shall be provided upon request.

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities who are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to either employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to

manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are considered to be compliant with all applicable Federal statutes and/or regulatory requirements. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

**REPORTS REQUIRED**

None.

**REFERENCES**

K.S.A. 44-501 et seq, 46-907, 46-913, 46-922, 46-924, 75-5251, 75-6101 et seq.

K.A.R. 44-16-104, 44-16-106, 44-16-107, 51-1-1 et seq.

IMPP 01-115

ACO 2-1B-11

ACI 3-4041

APPFS 3-3046

**ATTACHMENTS**

Attachment A - Staff-Citizen Property/Personal Injury Claim Form, 2 pages

Attachment B - Personal Injury or Property Claim Form, 6 pages

5-7

**Staff-Citizen Property/Personal Injury Claim Form**

\*\*\*\*\* Section I \*\*\*\*\*

Filed At: Facility/Office No. \_\_\_\_\_ Facility/Office Initials \_\_\_\_\_  
(Refer to PLC coding manual for facility/office number & initials)

Filed Against: Facility/Office No. \_\_\_\_\_ Facility/Office Initials \_\_\_\_\_  
(Refer to PLC coding manual for facility/office number & initials)

Type of Claim: (circle one) 01-Lost Property      02-Damaged Property      03-Personal Injury

Amount of Claim: \_\_\_\_\_

Date Loss/Injury Occurred: (MO/DAY/YR) \_\_\_\_\_

Name of Claimant: (Last, First, MI) \_\_\_\_\_

Where Loss Occurred:

NATURE OF CLAIM: (Set forth detailed facts including date of damage or loss, how it occurred, place of occurrence, how you claim facility, office or employee was negligent, and amount of loss claimed.)

\_\_\_\_\_  
Signature of Claimant

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Received from Claimant: \_\_\_\_\_  
Date                      Time                      Receiving Official

\*\*\*\*\* Section II \*\*\*\*\*

Date Received by Warden/Parole Director/Central Office Division Supervisor: (MO/DAY/YR) \_\_\_\_\_

Facility/Office Log No. Assigned: \_\_\_\_\_

Investigation Report:

Date: (MO/DAY/YR) \_\_\_\_\_  
Investigator Signature

5-8

\*\*\*\*\* Section III \*\*\*\*\*

Findings of Warden/Parole Director/Central Office Division Supervisor:

Recommendation of Warden/Parole Director/Central Office Division Supervisor:

(circle one)

- 01-Approved for same amount
- 02-Approved for lesser amount of \_\_\_\_\_
- 03-Disapproved
- 04-Claim Withdrawn

Date: (MO/DAY/YR) \_\_\_\_\_

\_\_\_\_\_  
Signature - Warden/Parole Director/C.O. Division Supervisor or Designee

\*\*\*\*\* Section IV \*\*\*\*\*

Date Received by Central Office: (MO/DAY/YR) \_\_\_\_\_

Secretary's Response:

Secretary's Recommendation:

(circle one)

- 01-Approved for same amount
- 02-Approved for lesser amount of \_\_\_\_\_
- 03-Disapproved
- 04-Claim Withdrawn
- 10-Held pending submission of supplemental data

Date: (MO/DAY/YR) \_\_\_\_\_

\_\_\_\_\_  
Signature - Secretary or Designee

Action by Accounts & Reports: Paid \_\_\_\_\_ Not Paid \_\_\_\_\_

CLAIMANT MUST COMPLETE THE FOLLOWING IF PAYMENT IS TO BE AWARDED:

I agree to accept \_\_\_\_\_ as full and final settlement of this claim against the State of Kansas and any individual, employee or agent thereof, and I waive any claims against the State, its agencies or employees arising out of this incident.

Date: (MO/DAY/YR) \_\_\_\_\_

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Social Security No.

**NOTE:** This claim cannot be processed and paid by the Division of Accounts and Reports unless the claimant has disclosed his/her social security number.

5-9



## JOINT COMMITTEE ON SPECIAL CLAIMS AGAINST THE STATE

### CLAIM FORM

Claim Number \_\_\_\_\_  
Filed: \_\_\_\_\_

(For Committee Staff Use)

- ! Fill out the claim form completely. Incomplete or unreadable forms will not be accepted, and the form will be returned to the claimant (person making claim). Claimants are encouraged to submit claims as early as possible.
- ! Claim forms must be received on or before November 1<sup>st</sup> in order to be heard by the Joint Committee on Special Claims Against the State prior to the next legislative session. Forms received after November 1<sup>st</sup> will be held by staff and not considered by the Committee until the following calendar year, from June to December.
- ! Any information provided in or accompanying a claim form will be considered part of the claim file. Documents in a claim file are subject to the Kansas Open Records Act and may be released to persons outside the Committee or staff upon proper request. Additionally, any documents received by the Committee or staff will be considered part of the claim file. Original documents submitted by claimants will not be returned.

The Joint Committee on Special Claims Against the State is intended as a venue to hear claims for which there is no other recourse to receive payment. The Committee is a place of last resort when there is no other way to appropriate money to pay a claim against the state. The Claims Committee does not act as a court or as an administrative hearing. Claims heard by the Committee are not subject to the Rules of Civil Procedure or the Rules of Civil Procedure for Limited Actions and small claims. The claims heard by the Committee are also not subject to the Administrative Procedures Act.

- ! The Joint Committee on Special Claims Against the State can only recommend payment to one individual or entity. If there is more than one claimant on an individual claim, you will need to designate which individual is to receive payment. If payment is to be made to an entity, including an open estate of a deceased person, you will need to designate the proper payee and contact person for an entity or estate.
- ! The Joint Committee submits recommendations for the claims it has heard in the form of a bill presented to the Legislature at the start of each session. Payment for claims that are approved by the Legislature and signed into law by the Governor are paid by the Division of Accounts and Reports. Prior to such payment being made, claimants are required to sign a release. Payments are generally made prior to June 1<sup>st</sup>. When an inmate owes an outstanding unpaid amount of restitution ordered by a court, money received by the inmate from the state as a settlement of a claim against the state is with drawn from the inmate's trust account as a set-off per KSA 46-920.

Revised July 2007

5-10

In the matter of the claim of:

Claimant's Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone (Home) \_\_\_\_\_ (Work) \_\_\_\_\_  
(city) (state) (zip)

Claimant's Attorney (if any) \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_  
(city) (state) (zip)

If payment of the claim is recommended, payment should be made to

\_\_\_\_\_  
(One Individual or Entity Only)

NOW, on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, comes the  
(Month) (Year)  
undersigned and makes a claim against \_\_\_\_\_  
(State Agency Name)  
in the amount of \$ \_\_\_\_\_, by virtue of: (Check the provision applicable to claim.)

Revised July 2007

**Personal Injury**

*Complete all questions on pages 3 and 4.*

**Property Damage**

*Complete all questions on pages 3 and 4.*

**Refused bill or voucher not presented in proper fiscal year.**

*Attach the bill or voucher and a statement setting forth full explanation for delay in presenting voucher.*

**Refund of fees or other payments to state in excess of amount due.**

*Attach a statement setting forth full explanation for overpayment.*

**Motor fuel tax refund.**

Permit No. \_\_\_\_\_

Social Security No. \_\_\_\_\_

*Attach affidavits, tickets, receipts and verification of motor-fuel tax payments made.*

<b>(For Department Use Only)</b>
REFUND GALLONS CLAIMED
Diesel: _____
Gasoline: _____
Gasohol: _____

**Sales tax refund—tax exempt project.**

*Attach a statement setting forth the nature of the project and the basis under which the project is tax exempt and receipts for the materials and services for which taxes were paid and a refund is claimed.*

**Other.**

*Attach a statement setting forth in detail the basis for the claim, together with any receipts, documents or exhibits which support the claim and complete questions on page 4.*

5-12

**Items 1 through 3—For Personal Injury/Property Damage Only**

1. Describe accident or occurrence in detail. Submit any accident or incident reports prepared at the time of the accident or occurrence (for example: motor vehicle accident reports, other law enforcement reports, report to employer, etc.) and any witness statements.

---

---

---

---

---

---

---

---

2. Describe the personal injuries or property damage or loss sustained by claimant in detail. Attach any reports prepared by third parties concerning the personal injuries or property damage or loss (for example: attending physician's assessment, other medical records, estimates of property damage made by adjuster, etc.)

---

---

---

---

---

---

---

---

3. List in detail the monetary losses sustained or expenses incurred by claimant as a result of the accident or occurrence. Attach any property valuation statements or repair estimates.

---

---

---

---

---

---

---

---

Revised July 2007

4. Did the claimant or any other party have insurance which covered or might have covered the accident or occurrence or the personal injuries or property damage or loss? List all such insurance policies by owner of the policy (name, address, telephone), insurance company, policy number and insurance agent (name, address, telephone).

---

---

---

---

---

---

---

---

5. Has any claim been made or lawsuit filed by the claimant or any other party against any insurance company or party based on the accident or occurrence? Describe in detail each such claim or lawsuit including when it was made or filed, for what amount, who was it claimed or filed against (name, address, and telephone), is it still pending, what amount was recovered, if any, and if denied, what was the reason for denial? Attach a copy of each such claim form or legal petition.

---

---

---

---

---

---

---

---

6. Claimant **does** **does not** (check one) desire to appear in person or by authorized agent or attorney before the Committee for a hearing when this claim is considered by the Committee. By making this request for a hearing, claimant agrees to appear in person or by authorized agent or attorney at the time and place of the meeting designated in the notice to the claimant. Claimant is advised that a hearing in person may be requested by the Committee and the claimant or the claimant's attorney will be required to be present at such hearing upon notification thereof.

\_\_\_\_\_  
(Signature of Claimant)

\_\_\_\_\_  
(Name typed or printed) 5-14

**CLAIM VERIFICATION**

STATE OF KANSAS, )  
 ) SS:  
COUNTY OF \_\_\_\_\_)

\_\_\_\_\_, being first duly sworn, states that he or she has read the instructions provided and the above and foregoing claim, including attachments, and knows the contents thereof and that the same are true and correct.

\_\_\_\_\_  
(Signature)

Subscribed and sworn to before me, a Notary Public, this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_  
(Month) (Year)

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_  
\_\_\_\_\_

Mail completed forms to:  
  
Joint Committee on Special Claims Against the State  
c/o Kansas Legislative Research Department  
300 S.W. Tenth Avenue—Room 010-W  
Topeka, Kansas 66612-1504



# KANSAS DEPARTMENT OF CORRECTIONS

A Safer Kansas through Effective Correctional Services

KATHLEEN SEBELIUS, GOVERNOR

ROGER WERHOLTZ, SECRETARY

LANDON STATE OFFICE BUILDING - 900 SW JACKSON  
TOPEKA, KANSAS - 66612-1284  
Telephone: 785-296-3317  
Fax: 785-296-0014

Page 1 of 1

## Policy Memorandum<sup>1</sup>

This Policy Memorandum Issuance # 06-12-001

Effective Date Upon Issuance                      Expiration Date Upon Reissuance of IMPP<sup>2</sup>

     Addresses subject matter for which an IMPP will be forthcoming and assigned to Chapter(s)      of the IMPP manual.

X  Amends or modifies existing IMPP(s) # 01-118

     Elaborates on the contents of IMPP(s) #     

     Is for Staff Only  X  Is for Both Staff and Inmates.

This policy memorandum is being issued to increase the amount of individual claims that a warden may approve sans review by the Secretary of Corrections from \$5.00 to \$25.00. Hence, procedural section III.C.1. is revised to read as follows:

“The warden shall serve as the Secretary’s approving authority [designee] for claims equal to or less than twenty five dollars [\$25.00] where payment is authorized.”

12/22/06  
Date: \_\_\_\_\_

Secretary of Corrections

<sup>1</sup> Note: To keep your IMPP Manual current, please place this Policy Memorandum in your manual at the appropriate location. If the memorandum addresses subject matter for which an IMPP will be forthcoming, place this issuance before the first IMPP in the Chapter indicated. If the memorandum addresses an existing IMPP, the issuance should be placed in front of the existing policy, just after any relevant statement(s) of annual review. If this memorandum is for both staff and inmates, it shall be immediately posted.

<sup>2</sup> Unless another Policy Memorandum or IMPP on this subject is issued, the requirements contained herein have no force and effect after the indicated expiration date.

# INTERNAL MANAGEMENT POLICY & PROCEDURES

## STATEMENT OF ANNUAL REVIEW

**IMPP #01-118**

**Title: ADMINISTRATION: Inmate Claims Procedure for Property Damage/Loss or Personal Injury**

The above referenced Internal Management Policy and Procedure (IMPP), issued effective 12-21-03, was reviewed during February 2006 by the KDOC Policy Review Panel per IMPP 01-101. At the time of this annual review, the Policy Review Panel determined that: no substantive changes and/or modifications to this IMPP are necessary at this time, and the IMPP shall remain in effect as issued on the above stated date.

**The next scheduled review for this IMPP is February 2007.**

**This statement of annual review shall be placed in front of the referenced IMPP in all manuals.**

05/26/06

\_\_\_\_\_  
Debi Holcomb, Victim Services Director  
Policy Review Committee Chairperson

\_\_\_\_\_  
Date


05/30/06

\_\_\_\_\_  
Roger Werholtz, Secretary of Corrections

\_\_\_\_\_  
Date



## KANSAS DEPARTMENT OF CORRECTIONS

	<b>INTERNAL MANAGEMENT POLICY AND PROCEDURE</b>	SECTION NUMBER	PAGE NUMBER
		01-118	1 of 5
Approved By:    Secretary of Corrections		SUBJECT:	
		ADMINISTRATION: Inmate Claims Procedure for Property Damage/Loss or Personal Injury	
		Original Date Issued:	12-13-88
		Current Amendment Effective:	12-21-03
		Replaces Amendment Issued:	02-15-02

### POLICY

Any inmate may file a claim for property damage/loss or personal injury with the Secretary of Corrections, but only those claims may be paid where it is established that the loss or damage was caused by the negligence of the State or any agency, officer, or employee thereof. The amount paid for property damage or losses may be based upon the original purchase or stated value, per IMPP 12-120, and the age of the property involved.

Each inmate shall report any personal injury or medical problem immediately, according to procedures established by written order of the warden. If a loss or damage is likely, the report shall be made as soon as possible after the injury or medical problem is known or should be known with reasonable effort. These procedures shall be strictly followed. Inmates shall seek medical care whenever needed to help prevent or lessen loss or damage due to injury or medical problems. The warden or designee shall conduct an investigation as soon as possible whenever loss or damage appears likely as a result of an injury or medical problem.

Staff assistance and all necessary forms shall be provided to inmates interested in filing a claim against the State for damaged/lost property or personal injury resulting from the negligence of employees. All claims shall be investigated and processed in accordance with the time limits established in this IMPP. (ACO 2-1B-11, ACI 3-4041, 3-4268, 3-4271, APPFS 2-3032)

Offenders who are on parole or otherwise serving a period of post incarceration supervision who wish to file a claim shall be permitted to do so in accordance with IMPP 01-117, Claims Procedure for Department Employees and the General Public.

On approved claims which are equal to or less than \$5.00, and filed by an inmate who lacks any unpaid court ordered restitution, the warden may elect to resolve the claim by offering commissary product[s] at an amount equal to or less than the approved claim amount. Should an inmate refuse to accept commissary product as payment for a claim, the inmate shall be paid in the same manner as an inmate who did not qualify to receive commissary product on their approved claims. All other approved claims, accepted by the inmate claimant, shall be promptly paid from operating funds budgeted for the correctional facility at which the negligent employee was employed at the time of the damage, loss or injury. Such funds shall be used to pay any outstanding unpaid court-ordered restitution.

### DEFINITIONS

None.

### PROCEDURES

#### I. Claims Limitations and Responsible Parties

5-18

- A. Although an actual claim against the State may be in excess of \$500, the Secretary may attempt to resolve the claim by offering payment at an amount equal to or less than this maximum amount.
1. In determining the depreciated value of property items included in inmate claims, the Department shall use the following formula:
    - a. The original value of the item shall be established using the inmate's receipt for the purchase of the item, or, the declared value if registered on the personal property inventory, per IMPP 12-120.
    - b. The age of the item shall be determined from the receipt or initial entry into the inmate's property inventory.
    - c. The depreciated value shall be determined by subtracting ten (10%) percent per year, up to a maximum of five years, from the original cost of the item.

## II. Claims Initiation Process

- A. The warden shall ensure that a supply of current claim forms are available to all inmates through unit team personnel.
- B. Claims for property loss or damage or personal injury totaling \$500.00 or less may be submitted to the facility and secretary of corrections.
1. An inmate filing a claim with the Secretary of Corrections shall obtain a claim form from the unit team, fill it out and return it, and ensure that they complete Section I of the appropriate form.
  2. The "Property Damage/Loss or Personal Injury Claim Form" (Attachment A, Form #01-118-001) shall be used for all claims in which the inmate claims property damage or loss or personal injury.
- C. All claims shall be made under oath and notarized.
1. The warden shall ensure that the unit team assists the inmate in submitting a claim by providing information and any necessary claims forms.
  2. The unit team shall provide the inmate with a receipt or a copy of the form indicating on it who received it, from whom and the date received.
- D. The completed form and any supporting documentation shall be submitted to the warden within 48 hours of receipt, excluding Saturdays, Sundays and holidays.
- E. Each claim shall be assigned a unique number, which shall be shown on the form.
- F. Each facility shall establish a claims log showing the unique number assigned to the claim and the date the number was assigned.
- G. The warden shall make a report to the Secretary of Corrections on such reported losses, damages or injuries via the entry of such claims into the Management Information System.

## III. Investigation Process

- A. The warden shall assign the claim for investigation as soon as possible. The following actions may be taken in the investigation of all claims:

1. Interview the inmate making the claim;
  2. Interview officers and employees who may be involved or have information regarding the claim;
  3. Interview other witnesses who may have information regarding the claim;
  4. Review appropriate records, reports, and logs pertaining to the claim; and,
  5. Submit copies of all records, reports, logs, and statements with the investigation report on the claim.
- B. This investigation shall be completed within ten (10) calendar days after receipt of the claim unless extended by the warden for an additional twenty (20) calendar days for good cause. The inmate shall be notified in writing of the reason for any extension.
- C. Upon receipt of the investigation report, the warden shall make either a decision or a recommendation regarding the disposition of the claim.
1. The warden shall serve as the Secretary's approving authority [designee] for claims equal to or less than five dollars [\$5.00] where payment is authorized.
  2. In cases where the claims are equal to more than five dollars [\$5.00], the warden's recommendation, the claim, and the investigation report with attachments shall be submitted to the Deputy Secretary of Facility Management who shall serve as the Secretary's approving authority (designee) for claims where payment in excess of five dollars [\$5.00] is authorized.
    - a. A decision on the claim shall be made by the Deputy Secretary of Facility Management within 20 days after receipt of the claim.
    - b. If granted, the claim shall be paid promptly according to procedures prescribed elsewhere within this document.
- D. For claims where the damage, loss, or injury occurred at another facility, the warden of the facility wherein the claim was filed shall, within two (2) days, excluding Saturdays, Sundays and holidays, forward a copy of the claim to the warden of the facility wherein the alleged damage, loss, or injury occurred.
1. The procedures set forth in Sections III. A. through III. C. shall then be followed.
  2. The warden where the investigation was conducted shall notify the warden of the facility where the claim was originally filed of the action recommended and forward the claim and investigation report with attachments to the Deputy Secretary of Facility Management.
- E. The Deputy Secretary of Facility Management or designee shall review the claim and all supporting documentation. The Deputy Secretary of Facility Management shall serve as the Secretary's approving authority (designee) for claims where payment is authorized.
- F. Claims received at the Central Office shall be processed and a determination made within twenty (20) calendar days after the date of receipt.

#### IV. Notification of Decision

A. Upon reaching a decision, the warden shall establish a permanent file of the claim equal to

5-20

or less than five dollars [\$5.00].

1. If the claim is rejected, the original shall be returned to the inmate.
  2. If a settlement is approved by the warden, the inmate claimant shall be requested to sign the original claim form.
- B. Upon reaching a decision, the Deputy Secretary of Facility Management shall establish a permanent file of the claim and return the original claim form to the appropriate warden for processing as follows:
1. If the claim is rejected, the original shall be returned to the inmate with a copy to the warden.
  2. If a settlement is approved by the Deputy Secretary of Facility Management, the original of the claim shall be returned to the warden for the purpose of obtaining the inmate claimant's signature.

**V. Acceptance/Rejection and Payment Processing**

- A. If the settlement of commissary product is accepted by the inmate claimant, by way of the inmate's signature on the claim form, the canteen storekeeper shall be notified.
1. The inmate claimant shall be required to sign for the commissary product.
  2. The facility business office shall maintain a file, as part of the canteen fund, which contains copies of all inmate acknowledgments in writing of claims settled through the canteen or commissary receipts associated with the claims.
- B. If the settlement is accepted by the inmate claimant, by way of the inmate's signature on the claim form, the facility business office shall submit the appropriate voucher form (DA 103 or DA 120) to the Accounting Control and Services Section of the Division of Accounts and Reports for payment.
1. Any payments to inmate claimants shall be in the form of credits to inmate trust fund accounts.
  2. No payments shall be made to an account of an inmate who fails to supply a valid social security number.
  3. Pursuant to K.S.A. 46-920, whenever an inmate owes an outstanding unpaid amount of court-ordered restitution, the facility business office shall withdraw from the inmate's trust account as a set-off:
    - a. Money received by the inmate from the Department as a settlement of a claim pursuant to this IMPP;
    - b. Money received by the inmate from the State as a settlement of a claim against the State; and,
    - c. Money received by the inmate from the State as the result of a settlement or final judgment in a civil action which the State or an employee of the Department was a named defendant and the State was found to be liable.
  4. When more than one State court order of restitution is outstanding and unpaid, moneys shall be applied to and paid for the restitution orders in the order in which the final judgment orders were entered.

5. Moneys collected for payment towards outstanding unpaid restitution shall be forwarded by the facility business office to the appropriate clerk of the district court for disbursement.
- C. If the settlement is rejected by the inmate claimant, a copy of the inmate's rejection statement shall be maintained in the facility file.

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities who are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to either employees, offenders, or third parties. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

**REPORTS REQUIRED**

None.

**REFERENCES**

K.S.A. 46-907, 46-913, 46-920, 46-922  
K.A.R. 44-16-102, 44-16-105  
IMPP 01-117, 12-120  
ACO 2-1B-11  
ACI 3-4041, 3-4268, 3-4271

**ATTACHMENTS**

Attachment A - Property Damage/Loss or Personal Injury Claim Form, 2 pages



Form #01-118-001

\*\*\*\*\* Section III \*\*\*\*\*

Warden's Findings:

Warden's Recommendation: 01-Approved for same amount  
(circle one) 02-Approved for lesser amount of \_\_\_\_\_  
03-Disapproved  
04-Claim Withdrawn

Date: (MO/DAY/YR) \_\_\_\_\_  
Signature - Warden or Designee

\*\*\*\*\* Section IV \*\*\*\*\*

Date Received by Central Office: (MO/DAY/YR) \_\_\_\_\_

Secretary's Response:

Secretary's Recommendation: 01-Approved for same amount  
(circle one) 02-Approved for lesser amount of \_\_\_\_\_  
03-Disapproved  
04-Claim Withdrawn  
10-Held pending submission of supplemental data

Date: (MO/DAY/YR) \_\_\_\_\_  
Signature - Secretary or Designee

Action by Accounts & Reports: Paid \_\_\_\_\_ Not Paid \_\_\_\_\_

CLAIMANT MUST COMPLETE THE FOLLOWING IF PAYMENT IS TO BE AWARDED:

I agree to accept \_\_\_\_\_ as full and final settlement of this claim against the State of Kansas and any individual, employee or agent thereof, and I waive any claims against the State, its agencies or employees arising out of this incident.



Date: (MO/DAY/YR) \_\_\_\_\_  
Signature of Claimant Social Security No.

**NOTE:** This claim cannot be processed and paid by the Division of Accounts and Reports unless the claimant has disclosed his/her social security number. Any payments to inmate claimants shall be in the form of credits to inmate trust fund accounts.

Doc Type IP1-PROPCLA

5-24

# KANSAS DEPARTMENT OF CORRECTIONS

	<b>INTERNAL MANAGEMENT POLICY AND PROCEDURE</b>	SECTION NUMBER	PAGE NUMBER
		11-101	1 of 10
		SUBJECT:	
		DECISION MAKING: Offender Privileges and Incentives	
Approved By:   Secretary of Corrections		Original Date Issued:	01-01-96
		Current Amendment Effective:	04-01-08
		Replaces Amendment Issued:	11-05-07

## POLICY

The Kansas Department of Corrections shall implement a comprehensive system of earnable offender privileges, which will provide an effective means of managing the offender population and reinforcing constructive behavioral changes in offenders. (ACI 3-4407)

## DEFINITIONS

Exempt Canteen/Property Items: Any non-consumable item with a canteen price of more than fifteen dollars [\$15.00]. Regardless of price, athletic shorts, sweat shirts, and sweat pants are exempt. The term "canteen price" has the meaning ascribed to it within the context of IMPP 12-120.

Post-Incarceration Supervision: The supervision of offenders for any type of release from a KDOC facility, to include release to parole, conditional release, and post-release supervision.

Post Intake: Property upon completion of Intake Level, items of personal property possessed in accordance with the specifications, quantity limits, and value limits set out in IMPP 12-120.

Self-help program or activity: Those programs and activities listed in Attachment A of this IMPP.

## PROCEDURES

### I. Earnable Privileges (ACI 3-4407)

- A. The following earnable privileges are included in the Offender Privileges and Incentive Level System:
1. Audio-Visual Equipment;
  2. Handicrafts;
  3. Participation in organizations and formalized activities, except as indicated below;
    - a. The offender's incentive level status shall not be used as a factor in consideration of placement into a formalized education or treatment program or service or participation in the self-help program or activities identified in Attachment A.
  4. Use of outside funds;



5. Canteen expenditures;
6. Property;
7. Incentive Pay; and,
8. Visitation.

## II. Incentive Levels

- A. Earnable privileges shall be grouped into four (4) levels for incarcerated offenders. These levels are: (ACI 3-4407)
1. Intake Level;
  2. Level I;
  3. Level II; and,
  4. Level III.
- B. Offenders on post-incarceration supervision shall not be subject to the Offender Privileges and Incentive Level System.
- C. Except as provided below, earnable privileges for Intake Level through Level III shall be administered in accordance with Attachment A. (ACI 3-4407)
1. Inmates participating in a KDOC work release program for reintegration at Wichita Work Release Facility (WWRF), Ellsworth Correctional Facility (ECF), Larned Correctional Mental Health Facility (LCMHF), Topeka Correctional Facility (TCF), or Hutchinson Correctional Facility (HCF) Work Release Unit shall be eligible to earn privileges in accordance with applicable general orders.
  2. Inmates participating in the mental health programs at LCMHF, the maximum female unit at TCF, or the Mental Health Transition Unit at LCF-CU shall be eligible to earn privileges in accordance with applicable general orders.
    - a. Prior to release or transfer to a general population living area, the inmate shall be assigned to an incentive level which most approximates the MH incentive level to which he or she was assigned immediately prior to transfer or release.
    - b. The inmate shall remain on the assigned incentive level until an increase or decrease is necessary based on behavior that occurred subsequent to the inmates release from the mental health unit or facility.
  3. Inmates participating in a Therapeutic Community Program shall be eligible to earn privileges in accordance with their program level.
  4. Inmates released from Larned State Security Hospital (LSSH) after receiving mental health treatment shall have their incentive levels determined by the unit team upon their return to a KDOC facility.
    - a. When computing the proper incentive level, the unit team shall give the inmate credit for time served if the inmate has completed the treatment program.

5. Parolees participating in a KDOC pre-revocation program shall be eligible to earn privilege accordance with applicable general orders.
  6. Inmates returned to Kansas who were incarcerated in another State as a Kansas compact inmate, inmates received in Kansas as interstate compact inmates who were initially sentenced and housed in another state, or *in absentia* inmate immediately prior to their return to Kansas for incarceration, shall be assigned the appropriate incentive level based upon their behavior while incarcerated in the other State. In example, if the inmate demonstrated appropriate and responsible behavior for 8 months prior to his/her return to Kansas, he/she would be awarded Level III privileges upon transfer from an RDU.
  7. Time spent while out to court shall not be included in the advancement of an inmate's incentive level.
    - a. Upon an inmate's return from court to KDOC custody he/she shall be reassigned to the incentive level he/she was assigned at the time of the release to court. The date for advancement, as applicable, shall be adjusted by the number of days the inmate was out of the Department's custody.
- D. For purposes of determining an inmate's incentive level, summary judgments pursuant to K.A.R. 44-13-201b shall be considered the same as a guilty finding in a disciplinary case.

### III. Progression Through Levels

#### A. Intake Level

1. Upon admission to the Department at an intake facility, offenders shall be assigned to the Intake Level.
  - a. Included are inmates returned to Kansas as a violator after having served time in another State or jurisdiction.
2. While at the Intake Level, inmates are limited to up to \$10.00 per pay period in canteen expenditures for those items identified in section V.B.1.a. of this IMPP.
3. Except as provided in section III.A.3.c. below, completion of the assessment and evaluation process at the intake facility and transfer to a facility for housing shall be considered successful completion of the Intake Level.
  - a. Offenders transferred to a facility for housing after refusing to complete the assessment and evaluation process shall remain at the Intake Level until completion of the assessment and evaluation process.
  - b. Except as provided in Section (1) below, in order to be promoted to Level I, offenders convicted of a class I or class II disciplinary offenses while at the intake facility must remain disciplinary conviction free through the first 120 day period subsequent to placement in a facility for the housing of general population inmates.
    - (1) Inmates housed at an intake facility convicted of a class I or class II disciplinary who have completed all phases of the evaluation process shall be assigned to incentive level I privileges upon transfer to general population facility in accordance with other provisions of this policy.
      - (i) Intake facility staff shall create a chrono entry that states if the disciplinary offense occurred prior to or subsequent to the completion of the evaluation process.

5-27

(2) Subsequent Class I or II disciplinary convictions received while assigned to Intake Level shall result in extending the Intake Level 120 days from the date of violation, after conviction.

c. While housed at an RDU, all inmates shall be assigned to Intake Level.

4. Inmates assigned to Intake Level shall not be eligible to earn incentive pay.

B. Level I

1. Inmates successfully completing the assessment and evaluation process at intake facility shall be promoted to Level I upon placement at another facility.

2. To complete Level I, an inmate must remain free of class I and class II disciplinary convictions, have no pending disciplinary reports, and demonstrate a willingness to participate in recommended programs and/or work assignments for 120 consecutive days.

3. Any inmate who, after his or her most recent admission, sustains a second or subsequent return to Level I (i.e., the inmates' third or greater time on Level I), must remain free of convictions related to class I and class II disciplinary reports, and demonstrate a willingness to participate in recommended programs and/or work assignments for two hundred forty (240) days from the date of his or her last return to Level I.

4. Except as provided in Section III.A.3.c. above offenders returned to prison as violators of the conditions of supervised release, with no new sentence, shall be returned to Incentive Level I.

5. Inmates refusing to participate in or removed from work release for performance or behavioral reasons shall return to Level I for two hundred forty [240] days from the date of placement in a general population facility.

C. Level II

1. Upon successful completion of Level I, the inmate shall be promoted to Level II.

2. Requirements for successful completion of Level II are the same as for Level I, as outlined in section III.B.2. of this IMPP.

D. Level III

1. Upon successful completion of Level II, the inmate shall be promoted to Level III.

2. An inmate shall remain on Level III provided he/she does not demonstrate inappropriate behavior as outlined in section IV of this IMPP.

E. The offender shall not advance to another incentive level if the offender has a pending disciplinary action. The decision as to whether the offender moves forward or backwards, or remains stationary, on offender privileges and incentives level system shall be based upon the disposition of the disciplinary action.

1. Included are charges filed with the county district prosecutor.

2. An appeal shall not preclude movement.

IV. Reductions in Level

- A. An inmate shall be reduced one (1) incentive level for either of the following, with the understanding that one disciplinary conviction that involves both a loss of custody and a placement to disciplinary segregation shall result in the loss of only one (1) incentive level:
1. Every two [2] disciplinary reports during a single 180 day period which result in a conviction for either a class I or class II offense. [Each additional two [2] disciplinary reports for either a class I or class II offense shall result in the loss of an additional level]; or,
  2. Any disciplinary conviction, not listed in section IV.B.4, which results in either a loss of custody or placement in disciplinary segregation.
- B. An inmate shall be automatically reduced to Level I for any of the following:
1. Termination from a work assignment for cause including:
    - a. Documented refusal to participate in work assignments or at the time of placement or upon the inmate's removal from a work assignment/program for performance considerations.
    - b. Conviction of a disciplinary infraction for termination from a work assignment due to poor work performance or refusal to work.
    - c. Behaviors occurring while on a work assignment, which result in removal. Such behaviors would include insubordination to the work supervisor, fighting on the job, interference with the official duties of the supervisor, etc.
  2. Documented refusal to participate in recommended programs at the time of placement or placement screening for the specific program or upon the inmate's removal from a program for performance considerations.
    - a. An inmate's refusal to participate in a recommended program(s) until such time that there is insufficient time remaining to complete the program prior to his/her projected release date, shall require that the inmate remain on incentive Level I until such time that he/she is released from incarceration.
    - b. If an inmate's incentive level is reduced as a result of refusing a program assignment, he or she is not eligible for an incentive level increase until they have demonstrated appropriate behavior for 120 days, including placement to, and satisfactory participation in, the program as follows:
      - (1) If the offender refuses to enter or is removed from sex offender's treatment, the offender must return to sex offender's treatment.
      - (2) If the offender refuses to enter or is removed from a primary substance abuse treatment program, the offender must return to a substance abuse treatment program that is determined to meet the offender's needs.
      - (3) If the offender refuses to enter or is removed from a vocational program, the offender must return to a vocational program approved by the offender's unit team.
      - (4) If the offender refuses to enter or is removed from an educational program, the offender must return to an approved educational program.
      - (5) If the offender refuses to enter or is removed from the pre-release program, the offender must return to an approved pre-release program.

- c. In those situations when the inmate is eligible for and pursuing program participation in good faith effort, as approved by the Program Management Committee, the inmate may begin to advance in incentive levels after 120 days if good cause is shown.
  - (1) Such advancements must be recorded on the inmate review and in the case management chronological file.
3. Conviction of a felony charge filed with the county or district prosecutor.
4. Disciplinary convictions for:
  - a. Theft (KAR 44-12-203);
  - b. Being in a condition of drunkenness, intoxication, or a state of altered consciousness (KAR 44-12-311);
  - c. Except as provided in c. (1) below, the use of stimulants, sedatives, unauthorized drugs, or narcotics, or the misuse, or hoarding of authorized or prescribed medication (KAR 44-12-312);
    - (1) Convictions for possession of over the counter medications sold via the canteen (aspirin, Tylenol, ibuprofen, etc.) exceed authorized limits shall not result in the inmate's automatic reduction to Level I.
  - d. Sodomy, aggravated sodomy, or aggravated sexual act (KAR 44-12-314);
  - e. Riot or incitement to riot (KAR 44-12-319);
  - f. Arson (KAR 44-12-322);
  - g. Assault (KAR 44-12-323);
  - h. Battery (KAR 44-12-324);
  - i. Inmate Activity (limitations) (section c of KAR 44-12-325);
  - j. Sexual Activity (KAR 44-12-326);
  - k. Interference with Restraints (KAR 44-1327);
  - l. Relationships with Staff (KAR 44-12-328);
  - m. Violation of statutes (44-12-1001a) if the statute is a felony crime;
  - n. Dangerous Contraband (KAR 44-12-901);
  - o. Threatening (44-12-306);
  - p. Disobeying orders (KAR 44-12-304) when the inmate's behavior is for refusal to submit to a urinalysis or any type of alcohol/drug testing; or,
  - q. Tobacco contraband
  - r. Telephones or Other Communication Devices (KAR 44-12-211):
    - (1) Using another offender's Personalized Identification Numbers (PIN);

- (2) Calling telephone numbers not listed on the inmate's authorized calling list; or,
- (3) Committing the theft of telephone services as defined by K.S.A. 21-3704.

- C. Inmates may be placed on restriction by the disciplinary board without a level reduction. Upon serving the restriction, the offender's privileges shall be restored commensurate with his/her incentive level.
- D. Offenders returned to prison as condition violators with no new sentence shall return to Level I except as provided in section III.A.3.c. of this IMPP.
- E. Except as indicated below, property items not authorized at the incentive level to which the inmate is reduced shall be removed from the facility in accordance with the provisions of IMPP 12-120.
1. Exempt canteen/property items, per IMPP 12-120, which include but are not limited to sound equipment and large appliances, authorized at Incentive Level II and III shall be stored upon the offender's first return to Level I. Such items shall be removed from the facility in accordance with the provisions of IMPP 12-120 at the inmate's expense in the following situations:
    - a. The inmate is returned to Level I for a second or subsequent time within a five (5)-year time frame; or,
    - b. The inmate is returned to Level I and fails to advance to Level II at the earliest possible review or opportunity.
  2. Offenders reduced from Level III to Level II may retain in-cell handicraft materials and supplies purchased while on Level III.
- F. Upon an offender's return to Level I, property items allowed under the provisions of IMPP 12-120 shall be removed from the facility in accordance with established policy.
1. Inmates reduced to Level I shall be permitted to retain property purchased via the canteen while on Incentive Level II or Incentive Level III, including consumable items, except those items to which they gained access as a result of advancement to a higher level.
- G. If an inmate's incentive level is reduced during a payroll period, canteen expenses for the entire period shall not exceed that which is authorized by the incentive level, per IMPP 04-108, to which the inmate shall be reduced.
1. If at the time the inmate is reduced to a lower incentive level the inmate has already spent or exceeded the maximum amount allowed under the reduced incentive level, the inmate shall not be permitted to spend any additional funds during that payroll period.
- H. An inmate laid in for cause who refuses to participate in a work assignment shall be precluded from access to the canteen, except for purchase of approved items identified in Section V.B.1.a.
- I. Per IMPP 10-109 Section C., inmates removed from a work or program assignment for cause shall be issued a disciplinary report.

**V. Inmates Confined in Administrative, or Disciplinary Segregation or Assigned Restriction**

- A. Administrative Segregation

1. In accordance with the provisions of KAR 44-14-306, inmates confined in administrative segregation shall be eligible, as much as possible, to earn and maintain privileges in the same amount and manner as any other inmate in the general population.

B. Disciplinary Segregation

1. Inmates confined in disciplinary segregation shall not have access to privileges, except as described below:
  - a. Canteen expenditures, as authorized by the facility warden but, if authorized by the facility warden, shall not to exceed \$10.00 per payroll period and shall be used for the purchase of the following items only:
    - (1) Shampoo and approved hair care products listed as allowable property in IMPP 12-120;
    - (2) Denture adhesive creme or powder;
    - (3) Creme or stick deodorant;
    - (4) The following writing supplies:
      - (a) Stamps (not to exceed 10);
      - (b) Writing paper (not to exceed 1 pad);
      - (c) Envelopes (not to exceed 10);
      - (d) Pencil;
    - (5) Chapstick and body lotion as carried in the facility canteen;
    - (6) Feminine hygiene products listed as allowable property in IMPP 12-120 (females only);
    - (7) Shower shoes;
    - (8) Legal Copy Tickets;
    - (9) Soft toothbrush;
    - (10) Toothpaste;
    - (11) Disposable razors (as permitted by facility General Order);
    - (12) Comb or pick; and,
    - (13) Soap;
    - (14) Primary religious text;
    - (15) Medication, restricted to over-the-counter medications as specified in the facility's General Order; and,
    - (16) Drinking cups, per specifications of IMPP 12-120.

- b. Inmates assigned to restriction shall be limited to privileges in accordance with applicat regulations.
  - (1) Canteen expenditures shall be limited to the dollar amount and items specified in section V.B.1.a. of this IMPP.

## **VI Disciplinary Diversion**

- A. Except as provided below, if the inmate enters into a disciplinary diversion agreement pursuant to IMPP 11-119, he or she shall still be eligible to advance in incentive levels in accordance with the provisions set forth in this policy as though no incident resulting in the filing of a disciplinary charge occurred.
  - 1. If the inmate fails to complete diversion, or receives another disciplinary conviction while on diversion, the inmate's incentive level shall be modified in accordance with Procedural Section IV of this policy.

## **VII. Limitation on Use of Incoming and Outgoing Funds**

- A. For inmates assigned to Intake Level, outgoing funds shall be limited to fees for legal services and/or postage for legal mail.
- B. Except as provided below, there shall be a \$40.00 limit on outgoing funds.
  - 1. Inmates may exceed the \$40.00 limit, if necessary, for the purchase a primary religious text if the cost of the text is greater than that amount.
  - 2. The \$40.00 limit shall not apply to payments for legal postage or to any of the following:
    - a. The court for verified restitution and/or court costs;
    - b. Verified fees payable to an attorney for legal services;
    - c. Verified child support payments;
    - d. Specialized fees, expenses as authorized by the warden or designee;
      - (1) As possible, approval for such payments shall be payable to the vendor or service provider only.
    - e. Purchases of approved handicraft materials/supplies; and
    - f. Expenditures for subscriptions to magazines and newspapers and/or purchase of books.
- C. Upon recommendation of the unit team and approval of the warden or designee, offenders assigned to private industry (minimum wage) or those who receive government benefits may be authorized, on an individual basis, to send out funds in excess of \$40.00 per pay period limit.

## **VIII. Monitoring of Offender Incentive Level**

- A. The assigned unit team counselor and the offender shall be responsible for ensuring that the incentive level entered into the computerized database reflects the offender's current status.
  - 1. Exceptions to authorized privileges and spending limits shall not be approved because the offender's Incentive level is not current.



- a. If an offender believes his/her Incentive Level is in error, he/she shall be responsible for informing their counselor that the level is in need of change.

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities who are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to either employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

**REPORTS REQUIRED**

None

**REFERENCES**

KAR 44-7-104, 44-12-203, 44-12-311, 44-12-312, 44-12-314, 44-12-319, 4-12-322, 44-12-323, 44-12-324, 44-12-325, 44-12-326, 44-12-327, 44-12-328, 44-12-401, 44-12-4901, 44-12-1001, 44-13-201b

IMPP 04-108, 12-120  
ACI 3-4407

**ATTACHMENTS**

Attachment A - Offender Privileges and Incentives Level System, 1 page

5-34

5-25

**OFFENDER PRIVILEGES AND INCENTIVES LEVEL SYSTEM  
(For All Inmates Except Those on "Exempt" Status)**

LEVEL	Audio/Visual Equipment	HANDICRAFTS	ORGANIZATIONS/ FORMALIZED ACTIVITIES	LIMITATION ON OUTSIDE FUNDS	CANTEEN EXPENDITURES	PROPERTY	INCENTIVE PAY	VISITATION
<b>INTAKE</b>	No personal audio/visual equipment.	Not available.	Severely Limited <sup>1</sup>	Outgoing funds limited to purchase or subscriptions for publications including newspapers, magazines, religious texts and books, fees for legal services and/or postage for legal mail.	\$10.00/payroll period for approved hygiene items.	Intake property per IMPP 12-120 and books, magazines, and newspapers.	Not available.	No visiting, except attorneys, clergy and law enforcement
<b>LEVEL I</b>	No personal audio/visual equipment.	Not available.	Limited. <sup>2</sup>	Allow outside funds; expenditures restricted to canteen and restrict outgoing funds to \$40 per pay period, except for expenditures related to the purchase of publications or subscriptions for newspapers, magazines, religious texts and books..	\$40.00/payroll period-And \$25.00 maximum per week.	Intake property per IMPP 12-120; athletic shorts, tennis shoes, work boots, hot pot, fan, alarm clock, blow dryer, extension cord, curling iron, lamp, ice chest sweat pants/tops and all consumable post-intake property per IMPP 12-120.	May earn up to current .60 per day incentive pay. (Inmates at ECF may earn .09 per hour or up to .63 per day)	Attorneys, clergy, law enforcement, primary visitor, and immediate family only; <sup>3</sup> follow KAR 44-7-104 and IMPP 10-113.
<b>LEVEL II</b>	May purchase personal audio/visual equipment via canteen.	Not available except that they may retain in-cell handicraft materials and supplies purchased while on Incentive Level III.	Limited. <sup>2</sup>	Allow outside funds; limit expenditures to canteen and restrict outgoing funds to \$40 per pay period, except for expenditures related to the purchase of publications or subscriptions for newspapers, magazines, religious texts and books.	\$110.00/payroll period and \$45.00 maximum per week; may purchase exempt canteen items additionally.	All post-intake property per IMPP 12-120.	Eligible for any incentive pay level, including Industries; Level III inmates given higher priority.	Any approved visitor; follow KAR 44-7-104 and IMPP 10-113.
<b>LEVEL III</b>	May purchase personal audio/visual equipment via canteen.	As allowed per IMPP 10-133.	Eligible to participate in all organizations / formalized activities.	Allow outside funds; limit expenditures to canteen and restrict outgoing funds to \$40 per pay period, except for expenditures related to the purchase of publications or subscriptions for newspapers, magazines, religious texts and books.	\$180.00/payroll period and \$50.00 maximum per week; may purchase exempt canteen items additionally.	All post-intake property per IMPP 12-120.	As per IMPP 10-109.	Any approved visitor; follow KAR 44-7-104 and IMPP 10-113.

<sup>1</sup> At a minimum, self-help programs and activities for inmates on Intake Level shall include the following: library services, pastoral care/religious services, and gym and yard access. Other self help programs may be designated by the facility Warden.

<sup>2</sup> At a minimum, self-help programs and activities for inmates in Level I and II shall include the following: Alcoholics Anonymous (AA), Narcotics Anonymous (NA), library services, the Victim/Offender Reconciliation Program (VORP), pastoral care/religious services, gym and yard access, DADS/WALC, M2W2, aftercare programming, and religious services in formal services/functions mandated by the religion, per IMPP 10-110. Other self help programs may be designated by the facility Warden.

<sup>3</sup> Includes court/SRS appointed legal guardian of children.

KANSAS DEPARTMENT OF CORRECTIONS

A Safer Kansas through Effective Correctional Services



KATHLEEN SEBELIUS, GOVERNOR

ROGER WERHOLTZ, SECRETARY

LONDON STATE OFFICE BUILDING - 900 SW JACKSON
TOPEKA, KANSAS - 66612-1284
Telephone: 785-296-3317
Fax: 785-296-0014

Page 1 of 1

Policy Memorandum<sup>1</sup>

This Policy Memorandum Issuance # 09-03-001

Effective Date Upon Issuance Expiration Date Upon Reissuance of IMPP<sup>2</sup>

Addresses subject matter for which an IMPP will be forthcoming and assigned to Chapter(s) of the IMPP manual.

X Amends or modifies existing IMPP(s) # 12-120

Elaborates on the contents of IMPP(s) #

Is for Staff Only X Is for Both Staff and Inmates.

This policy memorandum is being issued to increase the size of allowable photographs from 8 x 10 inches to 8 1/2 x 11 inches to accommodate xeroxed photos on standard 8 1/2 x 11 inch paper. Hence, the pertinent sections of Attachment A,B, and H of the above captioned IMPP are revised to read as follows:

Table with 3 columns: Photographs, Non-Polaroid, 8 1/2" x 11" or smaller, each separate image on multi-image sheets counting as one [1] photograph., 50

Handwritten signature of Roger Werholtz

03-09-09

Date:

Secretary of Corrections

1 Note: To keep your IMPP Manual current, please place this Policy Memorandum in your manual at the appropriate location. If the memorandum addresses subject matter for which an IMPP will be forthcoming, place this issuance before the first IMPP in the Chapter indicated. If the memorandum addresses an existing IMPP, the issuance should be placed in front of the existing policy, just after any relevant statement(s) of annual review. If this memorandum is for both staff and inmates, it shall be immediately posted.

2 Unless another Policy Memorandum or IMPP on this subject is issued, the requirements contained herein have no force and effect after the indicated expiration date.



# KANSAS DEPARTMENT OF CORRECTIONS

A Safer Kansas through Effective Correctional Services

KATHLEEN SEBELIUS, GOVERNOR

ROGER WERHOLTZ, SECRETARY

LONDON STATE OFFICE BUILDING - 900 SW JACKSON  
TOPEKA, KANSAS - 66612-1284  
Telephone: 785-296-3317  
Fax: 785-296-0014

Page 1 of 1

## Policy Memorandum<sup>3</sup>

This Policy Memorandum Issuance # 08-09-002

Effective Date Upon Issuance                      Expiration Date Upon Reissuance of IMPP<sup>4</sup>

Addresses subject matter for which an IMPP will be forthcoming and assigned to Chapter(s) of the IMPP manual.

Amends or modifies existing IMPP(s) # 12-120

Elaborates on the contents of IMPP(s) # \_\_\_\_\_

Is for Staff Only  Is for Both Staff and Inmates.

This policy memorandum is being issued to delete athletic supporters from the allowable post intake property list as contained within Attachment B of the above captioned IMPP. Hence, the following entry within Attachment B is to be deleted in its entirety:

Athletic Supporter.....	Males-only.	2	20.00 Total
-------------------------	-------------	---	-------------

09-11-08

\_\_\_\_\_  
Secretary of Corrections


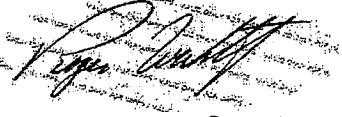
Date: \_\_\_\_\_

<sup>3</sup> Note: To keep your IMPP Manual current, please place this Policy Memorandum in your manual at the appropriate location. If the memorandum addresses subject matter for which an IMPP will be forthcoming, place this issuance before the first IMPP in the Chapter indicated. If the memorandum addresses an existing IMPP, the issuance should be placed in front of the existing policy, just after any relevant statement(s) of annual review. If this memorandum is for both staff and inmates, it shall be immediately posted.

<sup>4</sup> Unless another Policy Memorandum or IMPP on this subject is issued, the requirements contained herein have no force and effect after the indicated expiration date.

5-37

## KANSAS DEPARTMENT OF CORRECTIONS

	<b>INTERNAL MANAGEMENT POLICY AND PROCEDURE</b>	<b>SECTION NUMBER</b>  12-120	<b>PAGE NUMBER</b>  1 of 13
	<b>SUBJECT:</b>  <b>SECURITY AND CONTROL: Control of Inmate Personal Property</b>		
Approved By:  <b>Secretary of Corrections</b>		<b>Original Date Issued:</b>	<b>07-01-85</b>
		<b>Current Amendment Effective:</b>	<b>08-15-08</b>
		<b>Replaces Amendment Issued:</b>	<b>04-01-08</b>

### POLICY

#### I. Access to Personal Property

- A. Inmates shall be permitted to retain, purchase, or receive hygiene and/or personal property items while incarcerated in a KDOC facility. In accordance with K.A.R. 44-16-105, an inmate is permitted to own property at his or her own risk. (ACI 3-4272, 3-4279, 3-4280)
- B. Consistent with considerations for institutional order, safety, and security the Deputy Secretary of Facility Management shall establish: (ACI 3-4272, 3-4279, 3-4280)
  - 1. The type and amount of property inmates may possess as determined by each inmate's privileges and incentives and custody level or the housing facility's security designation; and, (ACI 3-4272, 3-4279, 3-4280)
  - 2. Specifications and/or descriptions and value of allowable property items. (ACI 3-4272, 3-4279, 3-4280)
    - a. Whenever specifications call for certification by Underwriter's Laboratories [UL], a certification by Intertek's ETL Semko division [ETL] shall be considered equivalent with regard to ensuring that the product meets appropriate quality and/or safety standards.
- C. Allowable inmate personal property, except that categorized as appliances, shall be obtained by the inmate in a manner determined and specified by the warden in facility general orders.
- D. Allowable inmate personal property that is categorized as appliances shall be obtained by the inmate through the facility canteen or special purchase orders.
- E. Wardens shall be authorized to stock over the counter medications in facility canteens, which shall be included in the inmate property allowance. The purchase and possession of such medications shall be subject to the "consumable limitation" provision of this IMPP. In accordance with the provisions of IMPP 04-108, these canteen items shall be made available after consultation with the Health Authority, and consistent with security and operational concerns at the discretion of the warden. The medication items, purchased through the facility canteen, shall be transferable between facilities as allowable personal property unless there is a documented security reason to deny such items.

#### II. Safeguarding and Control of Personal Property (ACI 3-4281)

- A. Any property which, in the original state or through alterations or additions, displays graphics, depicts, or mentions drugs, alcohol, obscenities, or symbols associated with unsanctioned group related activity shall be prohibited.

- B. Personal property shall be controlled through a formal system of acquisition, inventory, registration and identification, storage, and disposal. (ACI 3-4281)
1. Unauthorized and unregistered property items shall be considered contraband.
  2. Each facility shall establish and maintain an area for the secure storage of inmate property, which is received, abandoned, or confiscated due to disciplinary or other administrative actions. (ACI 3-4281)
- C. Inmates shall assume responsibility for the care and control of all properly inventoried and registered personal property. The Department shall take reasonable measures to prevent damage to inmate property, but shall not assume liability for the loss or damage of allowable property possessed by inmates. (ACI 3-4281)

### III. Transfer of Personal Property

- A. Allowable property items shall be transferable between all KDOC facilities consistent with the security level of the receiving facility and the incentive level and custody status of the inmate.

### DEFINITIONS

Admission property: That personal property which may be brought with the inmate at the time of admission to KDOC custody.

Canteen: A store through which inmates are provided an opportunity to purchase allowable hygiene, snack and property items. Generally, such a store is managed by facility personnel within the confines of the facility, however, local department stores may be designated to serve as canteens for inmates in smaller facilities.

Canteen price (CP): The current cost to the inmate of an approved item of personal property available in a facility's canteen or through a local vendor approved by the warden.

Consumable limitation (CL): A \$75.00 combined value of all items for which a consumable limitation (CL) is indicated on Attachment B, but does not include consumable handicraft items.

Consumable property: That personal property which does not require registration upon receipt but which must be recorded on property inventory forms any time an inmate's property is inventoried. All such property is subject to the consumable limitation.

Intake property: That personal property which may be possessed by an inmate while on Intake Level pursuant to IMPP 11-101.

Inventory: A detailed listing of property, which is actually in an inmate's possession. To make a detailed listing of any inmate's property.

Legal material: That material concerning a pending or anticipated case, wherein the inmate is or will be a party, and shall include pleadings, transcripts, books, notes, drafts, and correspondence to and from attorneys, courts, and public officials.

Post-release supervision: Refers only to the supervision of offenders released as the result of Sentencing Guidelines.

Register: The action of recording an item of property at the time it is received.

Registered property: That property which must be recorded in the inmate's property record upon receipt.

Soft metal cans: Containers with tops which are manufactured with a means for removing the top without the use of a mechanical can opener; i.e., tops may be removed with a pull-tab, twist-top, or other device which is attached to the can.

Work release program: For purposes of this policy, refers to a traditional program of non-prison based employment within a community setting utilizing inmates with not more than a minimum custody classification. This does not include inmate employment with Kansas Correctional Industries or any private industry employment program, as defined by IMPP 10-109.

## **PROCEDURES**

### **I. Allowable Property**

#### **A. Admission Property**

1. All offenders delivered to KDOC custody by a Kansas county sheriff shall be permitted to retain only that personal property specified in Admission Property List (Attachment H) during their orientation to the receiving facility. (ACI 3-4272, 3-4279, 3-4280)
  - a. Any personal property such inmates possess upon admission, which is not authorized, shall be returned to the sheriff or agent delivering the inmate.
  - b. Any item returned to the sheriff or agent delivering an inmate shall be recorded on the Request/Authorization to Remove Personal Property form (Attachment F, Form #12-120-003) and signed by the party receiving said property.
  - c. The Wardens of the Topeka and El Dorado Correctional Facilities or their designees shall be responsible for providing each county Sheriff with a current copy of Attachment H and any subsequent revisions.
2. Inmates delivered to KDOC custody by any agent or agency other than a Kansas county Sheriff shall be permitted to retain any personal property so long as it is an authorized post intake item and conforms with the specifications shown in Post Intake Property List (Attachment B). (ACI 3-4272, 3-4279, 3-4280)
  - a. Authorized property which cannot be in the inmate's possession due to incentive level, security/custody considerations, or limitations required by the facility placement shall be stored by the receiving facility.
  - b. Any such property that does not conform shall be removed in accordance with the provisions of Section IX. of this policy.
3. Inmates refusing evaluation or who were convicted of a class I or II disciplinary violation while at RDU shall have property limited to admission property only.

#### **B. Post Intake Property**

1. Upon completion of Intake Level per IMPP 11-101, inmates shall be permitted to possess items of personal property in accordance with the specifications, quantity limits and value limits set out in Attachment A and a fan, hot pot, and tennis shoes, with the following exceptions:
  - a. Inmates transferred to a Reception and Diagnostic Unit from another KDOC facility shall be limited to only the Admission Property List (Attachment H).
  - b. Inmates in disciplinary segregation shall only have access to the basic personal hygiene items as allowed by IMPPs 12-127 & 20-101.
  - c. Inmates in administrative segregation as a suicide or special security risk shall be limited to only those items specified in facility general orders for inmates in that status.
  - d. Inmates in disciplinary or administrative segregation shall not be permitted access to either personal or facility owned typewriters.

- (1) All correspondence and/or legal material drafted by segregation inmate shall be prepared using the writing instruments and paper ordinarily provided to inmates within their particular segregation status.
  - (2) Any typewriter possessed by an inmate as an item of personal property shall be removed from his/her possession prior to placement in segregation, shall be stored by the facility, and shall be returned to the inmate upon his/her removal from segregation.
2. Except as provided in I.B.3, it shall be left to the warden of each facility to determine which items of allowable personal property are stocked in the facility canteen, based upon space available and historical demand for a particular item by the facility population.
    - a. If a warden determines to stock padlocks for inmates to purchase, in light of the inclusion of one (1) padlock in the list of allowable post intake property (see Attachment B), the following shall apply:
      - (1) Only "Master" brand combination padlocks with key access shall be sold in the canteen; and,
      - (2) Only "Master" brand series 36, 51, 58, 59, 60 or 62 shall be sold.
  3. Postage stamps shall only be permitted as a canteen purchase item, and any allowable personal property, which is categorized as an "appliance" in Attachment B shall be either stocked in the canteen or made available for purchase by special purchase order.
  4. Wichita Work Release Facility shall utilize local merchants as a source for such personal property items as are listed in Attachment B as canteen purchase items.
  5. Except as provided in I.B.3., it shall be left to the warden of the facility to determine and specify in facility general orders the manner in which allowable personal property may be obtained.
    - a. It shall be within the discretionary authority of the warden of the facility to limit or disapprove access to any item subject to the consumable limitation (CL) except that inmates shall be permitted to exhaust the supply of such property, which they bring with them at the time of transfer.
    - b. Post-release supervision conditions violators with no new sentence shall not be permitted to possess appliances or items of personal clothing identified in Attachment B of this IMPP.
  6. The warden may provide storage for some items of inmate property, which are determined unnecessary for the inmate's use while at a particular facility but which the inmate wishes to retain on the property inventory.

C. Legal Material

1. Inmates shall be permitted to possess that quantity of legal material/documents, which will fit in one box.
  - a. The box shall not exceed 18" (L) x 12" (W) x 6" (D) in size.
  - b. The box shall be in addition to the property, which must fit within a transfer/storage box as specified in III. A. 1. of this policy.
  - c. Upon request of the inmate, the facility shall provide the inmate with a document storage box.



2. Inmates who possess legal materials in such a quantity that it cannot be contained in the legal material/document box may utilize space within the personal property storage box to retain the excess.
  - a. All personal property and excess legal materials must be contained within the transport/storage box.
    - (1) In the event the inmate has chosen to retain legal materials in such an amount that personal property items and legal material combined exceed the space available in the transport/storage box:
      - (a) It shall be left to the inmate to choose which legal materials or personal property shall be removed to achieve compliance with the above policy.
        - i. The inmate shall be directed by the facility Property Officer to identify the legal materials or personal property to be removed (per Section IX. of this IMPP). The inmate shall be advised that the warden or designee shall determine which items are to be removed if the inmate refuses to make a choice, or, makes a choice, which does not accomplish compliance.
      - (b) In the event the selection becomes the responsibility of the warden or designee, the selection shall concentrate on items of personal property of combined dimensions so that the amount removed shall be of no greater mass than that of the excess legal materials.
      - (c) If all of an inmate's personal property items have been removed from the facility to provide space for legal materials, and, an excess of legal materials remain, the Property Officer shall advise the inmate of the need to identify a quantity of legal materials to be removed in accordance with Section IX. of this IMPP.
        - i. The inmate shall be advised that the inmate's failure to make an appropriate choice of a sufficient quantity of material to comply with this policy shall require such a determination by the warden or designee, per subsection (a), above. The selection of legal material for removal by the warden or designee shall be done randomly and blindly to ensure that staff do not read the inmate's legal materials.
      - (d) Inmates who have been required to reduce their legal material amount to the maximum quantity contained in both the transport/storage box and the legal material/document box may continue to receive legal materials in the mail. If new legal material is received the inmate shall be notified by the facility Property Officer that an equal amount of legal materials must be removed from the facility within five (5) working days (excluding weekends and holidays) of the inmate's receipt of new legal material.
        - i. The inmate shall be provided the opportunity to determine which legal materials are to be removed. Failure of the inmate to make a choice shall result in a determination by the warden or designee, per procedure (c)(i.) above.

- b. The legal material/document box shall be utilized for legal materials only and shall not be utilized for inmate personal property.
3. The possession of legal materials by inmates in segregation may be limited, but access shall be permitted upon request, on a reasonable time and manner consistent with the security and order of the facility.

**D. Religious Material**

1. Inmates shall be permitted to possess religious items and materials as specified in Attachment B and/or in accordance with provisions of IMPP 10-110.
2. Any religious item included in the list of allowable personal property must be approved by and obtained through the facility chaplain and received through the chaplain.
  - a. At those facilities, which do not employ a chaplain, the warden or designee shall approve the receipt of any religious items.
3. Any approved religious item which the facility chaplain can obtain for no cost and which is given to an inmate, shall be considered the personal property of the inmate.
  - a. Any such item shall be counted as part of the volume of the inmate's personal property.
4. Any approved religious item which the facility chaplain can obtain at some cost, and which is given to an inmate for his or her use as religious material, shall remain the property of the State of Kansas, Department of Corrections, and shall not be considered part of the personal property of the inmate.
  - a. Any such item shall be clearly marked as property of the State of Kansas, Department of Corrections.
  - b. Any such item shall remain at the facility upon the departure from the facility, either by release, transfer or otherwise, of the inmate using such an item.
  - c. Any such item shall not be counted as part of the volume of the inmate's personal property.
  - d. The chaplain shall make reasonable accommodations and efforts to obtain religious items for inmates whose religious beliefs make use of items, which cannot be obtained without charge by the facility, consistent with provisions of IMPP 01-122.

**E. Clothing**

1. All items of personal clothing shall fit the inmate properly and shall be maintained in proper state of repair by the inmate.
2. Items of clothing, which would otherwise be permitted but, when worn, are considered immodest or provocative shall not be allowed.
3. The warden shall be responsible for determining the appropriateness or inappropriateness of any item of clothing and his/her decision shall be final.

**II. Property Specifications**

**A. Containers**

1. No glass containers shall be permitted.

2. No aerosol containers shall be permitted.
3. No metal containers shall be permitted except soft metal containers such as aluminum soda cans and potted meat/fish cans.

B. Waiting Periods

1. For inmates convicted of crimes committed prior to July 1, 1993, certain items of property may not be possessed until after progressing beyond Intake Level, per IMPP 11-101.
2. On or after January 1, 1996, any inmate returned to Incentive Level I and who meets the conditions specified in appropriate procedures of IMPP 11-101, shall have all unauthorized property removed in accordance with the provisions of this IMPP.

C. Security/Custody Limitations

1. Some property items shall be permitted for medium and minimum-security female inmates only. When such a limitation is applicable, it shall be so stated in the property specification section of Attachment B.
2. Some items of property shall be permitted only at work release facilities. When such a limitation is applicable, it shall be so stated in the property specification section of Attachment B.

D. Gender Specific Property

1. Some items of property shall be permitted only for inmates of a specific gender. When such a limitation is applicable, it shall be so stated in the property specification section of Attachment B as, "female only" or "male only".

E. Clear View Appliances

1. To the extent that they are available, all fans, radios, televisions, alarm clocks, calculators, and other appliances (as they become available) shall have clear external cases that permit a clear view of the interior of the appliance.

F. Basic, plain gray sweat suits, as described within Attachment "B" of this policy [*Post Intake Property List*], obtained by non-work release male and female inmates shall be subject to the following identification procedures:

1. The property officer shall be responsible for marking sweat suits when received, with the inmates name and number on the outside of the garment, in the following manner;
  - a. Sweat suit pants or shorts shall be marked with a 2-inch capital blocked number/letter stencil, with horizontal letter orientation, in permanent marker, vertically down the side of the right leg, with the inmate's number directly next to the name.
  - b. Sweat suit shirts shall be marked with the same 2 inch lettering, with the name centered horizontally across the back between the shoulder blade area of the shirt, and the inmate's number centered directly below the name.
2. The Unit Team Manager or designee shall be responsible to ensure that existing items of sweat clothing are properly marked in accordance with this policy.
3. Any alterations to the name or number shall be prohibited. Violation shall result in disciplinary action in accordance with KAR 44-12-1002, Violation of published orders, Class II offense.

5-44

4. Upon the effective date of this policy, existing markings on sweatshirts, pants and shorts shall be approved by the inmate's respective Unit Team Manager or designee."

### III. Quantity of Property

- A. The total amount of personal property, which an inmate shall be allowed to possess, shall be limited to that which fits in one standard transport/storage box, excluding legal material (see I.C.1.).
  1. The standard transport/storage box used by all facilities shall be 15" (L) x 13 $\frac{3}{4}$ " (W) x 21" (D) in size, and of the type purchased on state contract.
  2. Stereos, televisions, typewriters, and fans shall not be included in the volume limit.
  3. Personal clothing permitted at work release shall not be included in this limitation.
- B. At any point in time, an inmate may be required to pack personal property in a standard transport/storage box to show that the quantity of property possessed is within the established limit.
  1. Whenever an inmate's personal property is inventoried, all items of property shall be recorded, including those, which the inmate is wearing or has physical possession of at the time the inventory is taken.
  2. Any excess personal property shall be handled in accordance with the procedures in Section I.C.2. and Section IX. of this IMPP.
- C. Unless a specific quantity limit is shown in Attachment B for an item, the inmate may possess as many of an item as desired within the volume limit.
- D. Certain items shall be subject to a consumable limitation. When the consumable limitation applicable, the letters "CL" appear in the quantity column in Attachment B.

### IV. Value of Property

- A. Value limits for items of personal property shall be as established in the value column of Attachment B.
- B. Inmates may not declare any property value in excess of the maximum established value limit.
- C. In the event a property claim is filed in accordance with IMPP 01-118, the department's liability shall not exceed the established value limit, except that the Department's liability for publications including religious texts, books, magazines, and newspapers shall not exceed \$150.
- D. Items listed on the Special Property Inventory Form (Attachment G, Form #12-120-004) shall be valued according to prior applicable versions of IMPP 12-120, and general orders of the facility housing the inmate as of 4-15-91 concerning discretionary property values.

### V. Creation and Organization of Property File (ACI 3-4281)

- A. Upon an inmate's admission to the Department a property file shall be created.
- B. This file folder shall be green in color and shall be organized as follows:
  1. Left side: Inmate Personal Property Inventory forms (Attachment D, Parts I & II, Forms #12-120-001a-c); and Special Property Inventory Forms (Attachment G, Form #12-120-004).
  2. Right side: Inmate Property Receipt forms (Attachment E, Form #12-120-002, Request/Authorization to Remove Personal Property forms (Attachment F, Form #12-

120-003); and, any miscellaneous documents regarding the inmate's property which come into existence.

- C. The property file shall be forwarded to the receiving facility with all other inmate files at the time of the inmate's transfer.
- D. Any time the inmate's records are transferred to the inactive inmate records repository in accordance with IMPP 05-103, the inmate property file shall be included among those records transferred.

**VI. Registration of Personal Property (ACI 3-4281)**

- A. At the time of admission to any Department of Corrections facility, the inmate's property shall be inventoried and registered using the Inmate Personal Property Inventory form (Attachment D).
- B. Any time a registerable item of property is acquired, that item shall be recorded on an Inmate Property Receipt form (Attachment E).
- C. Any time a registerable item of property is removed, that item shall be recorded on the Request/Authorization to Remove Personal Property form (Attachment F).
- D. Until such time as a reason develops to complete a new Inmate Personal Property Inventory form, the inmate's complete property listing shall consist of those items shown on the existing Inmate Personal Property Inventory, those items shown on all Inmate Property Receipts completed after the date of the last inventory, and less any items shown on the Request/Authorization To Remove Personal Property form. These documents shall be placed in the inmate's property file in accordance with Sections V.B.1. & 2. above.
  - 1. In the event property is removed at the direction of the warden or designee, and against the wishes of the inmate, the Request/Authorization To Remove Personal Property (Attachment F) shall be signed by the warden or designee.
  - 2. At any time, the inmate shall be required to produce all items of property listed on the Inventory or Property Receipt forms, if directed to do so.
  - 3. At any time an inmate's property is inventoried, the property listed on the new inventory list shall be checked against the inmate's prior inventory, property receipt record, and removal record.
    - a. Before signing the inventory, the inmate shall be responsible for noting any discrepancies.
    - b. Property that has not been properly registered shall be confiscated.
- E. All items of inmate property, except items identified as consumable, shall be registered on the Inmate Personal Property Inventory form (Attachment D).
  - 1. All non-consumable intake property shall be registered at the time of the inmate's admission.
  - 2. All property received after the inmate's admission shall be registered at the time of receipt, using the Inmate Property Receipt form (Attachment E).
- F. For items of property received after the intake period, inmates shall be required to provide evidence of the item's value. This evidence may be in the form of:
  - 1. A receipt from the store where the item was purchased; or
  - 2. The inmate's declaration of value, Attachment E, as witnessed by the property officer on duty.

- a. When an item's declared value is clearly excessive or inaccurate, the inmate may be required to produce other proof of value before being allowed to receive the property.
- G. Any property of value in excess of \$15.00 shall be engraved with the inmate's number.
1. If the item cannot be engraved, it shall be marked in indelible ink.
  2. Small items, such as jewelry and prosthetic devices, which cannot be marked, shall be subject only to recording on the inmate's property record.
    - a. The description and value of such an item shall be recorded on the inmate's property record.

## VII. Inventory of Inmate Property

- A. Any time an inmate's property is taken into the custody of an employee for storage, transfer, or any other reason, a complete inventory record of the property shall be made.
1. All items of the inmate's property shall be recorded on the Inmate Personal Property Inventory form, Attachment D.
    - a. Whenever an inmate's personal property is inventoried all items of property shall be recorded on the Inmate Personal Property Inventory form, including those, which the inmate is wearing or has physical possession of at the time the inventory is taken.
  2. Unless precluded for security reasons, the inmate shall be present at the time of the inventory.
    - a. If the inmate is not present at the time the inventory is taken, the reason shall be documented in the inmate's property file on the inventory form.
    - b. Inmates shall not be used to pack or assist in the packing of property belonging to another inmate.
  3. The inmate shall sign the completed inventory form attesting to its accuracy. Any discrepancies shall be noted on the inventory.
  4. The inventory shall be checked against the previous Inmate Personal Property Inventory & Registration form to ensure that all items of registered property are present. The inmate shall be required to account for any discrepancies at this time.
  5. The inmate shall sign each page of the inventory form, Attachment D.
  6. The inmate shall receive a copy of the completed inventory form.
  7. The property shall be packed into the box prescribed in III.A.1. and sealed in the presence of the inmate, if possible.
  8. Staff shall complete a KDOC Electronics Checklist (Attachment I) for electronic items.
- B. When the property is returned to the inmate, the inmate shall sign the original inventory verifying that all property has been returned.
1. It is the responsibility of the inmate to report any discrepancies at the time the property is returned.

2. Discrepancies shall be noted by the inmate on the inventory form, and witnessed by the property officer.
  3. Staff shall complete a KDOC Electronic Checklist (Attachment I) for electronic items.
- C. Each facility shall maintain a secure property storage area.
1. Access to this area shall be strictly controlled.
  2. Inmates shall not have access to this area unless under continuing supervision of staff.

#### **VIII. Transfer of Inmate Personal Property**

- A. Upon transfer between KDOC facilities, inmates shall be permitted to retain property listed in Attachment B consistent with the appropriate incentive level per IMPP 11-101, and security/custody considerations, Section II.C. All property transferred shall be inventoried and packed in accordance with section VII. of this IMPP.
- B. Upon transfer from any KDOC facility to Larned State Security Hospital for any reason, only that property which is listed in Attachment C shall be transferred with the inmate.
1. All other property, except food items, shall be stored at the sending facility until such time as the inmate returns or is otherwise released from the custody of the Secretary of Corrections.
  2. All food items shall be removed from the inmate's property and disposed of pursuant to Section IX. of this Policy.
- C. Upon an inmate's removal from a work release program, the inmate's property shall be packed and inventoried.
1. Property listed in Attachment B as permissible only in work release shall be separated and recorded on a property removal form.
  2. Property items listed in Attachment B as permissible only to medium and minimum female inmates shall be separated and recorded on a property removal form if a female inmate is to be transferred to the maximum facility and her security classification status is revised to maximum.
  3. The property shall then be disposed of in accordance with Section IX. of this policy.
  4. All other property permitted on Attachment B shall accompany the inmate.
- D. The inmate's name, number and destination shall be affixed to the transport/storage box and the legal material/document storage box with a shipping label glued/taped in a secure manner.
1. Care shall be taken to ensure the transportation/storage box and legal material/document box is securely sealed prior to delivery to the Transportation Unit.
  2. Shipping labels shall be legible and affixed in such a manner that the containers may be reused for other inmates' property storage or transfer.

#### **IX. Removal of Property from a Correctional Facility**

- A. At any time property is removed from the facility, not accepted, or destroyed at the inmate's or facility's request, it shall be documented on the Request/Authorization to Remove Personal Property form (Attachment F).
- B. Property may be removed from the facility by:

1. Mailing the property to an address of the inmate's choosing at the inmate's expense or with the approval of the warden, at the facility's expense.
  2. Donating the property to a charitable organization.
  3. Having the property picked up by an authorized person approved by the warden.
  4. Removing and taking the property to a sponsor's address on an approved furlough.
  5. Facility staff delivering the property to an address in the locale of the facility, if approved by the warden.
  6. If an inmate refuses to designate an approved means of removal, the Warden or designee shall make the designation.
- C. Facility general orders shall specify a procedure whereby personal property is removed from the facility.
- D. An inmate may authorize the destruction of an item of property.
- E. Personal property left at a facility by an inmate shall be considered abandoned property pursuant to K.S.A. 75-52,135. (ACI 3-4393)
1. Any personal property not claimed by an inmate or authorized representative within ninety (90) days of an inmate's release from custody shall be considered abandoned property.
  2. Any personal property left at a facility by an inmate who has escaped from custody shall immediately be determined to be abandoned property.
  3. Any personal property determined to be abandoned, pursuant to K.S.A. 75-52,135 shall be reported to the State Treasurer, pursuant to K.S.A. 58-3912.
    - a. The State Treasurer may dispose of the abandoned inmate property in accordance with the provisions of K.S.A. 58-3918.

**X. Implementation**

- A. On and after the effective date of this IMPP, inmates shall be allowed to receive only that property which is permitted by the provisions of these procedures.
- B. Inmates who, on 4-15-91, were in possession of personal property approved under previous policies, or who, prior to 11/07/95, were in possession of certain general handicraft tools as specified within IMPP 10-133, Procedure II.D., shall be permitted to retain that property until:
1. They are transferred to another facility;
  2. They are convicted of a disciplinary violation involving a particular item of such property; or,
  3. Repair or replacement of such property becomes necessary (excluding prosthetic or other devices prescribed by any facility health authority, or the general handicraft tools referenced within Procedure X.B., above).
- C. If it becomes necessary, for any reason, to inventory an inmate's personal property before transfer to another facility, the Special Property Inventory Form (Attachment G), shall be used to document the possession of personal property approved under previous policies.



1. Special Property Inventory forms shall be considered null and void upon transfer to another facility at which time the inmate's personal property must fully comply with the provisions of this IMPP.
- D. All inmates who are transferred to another facility within the Kansas Department of Corrections after the effective date of this IMPP shall be permitted to retain only those property items appropriate to the receiving facility, consistent with the inmate's gender and custody level as described in Attachment B of this IMPP.

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities who are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to either employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

#### **REPORTS REQUIRED**

None.

#### **REFERENCES**

K.S.A. 58-3934, 58-3950, 75-5257, 75-52,135  
K.A.R. 44-14-101, 44-16-105  
IMPP 01-118, 01-122, 05-103, 10-110, 10-133, 11-101, 12-127  
ACI 3-4272, 3-4279, 3-4280, 3-4281, 3-4393

#### **ATTACHMENTS**

Attachment A - Intake Property List, 1 page  
Attachment B - Post Intake Property List (alphabetical), 11 pages  
Attachment C - Items Transferable to LSSH, 1 page  
Attachment D - Inmate Personal Property Inventory, 3 pages  
Attachment E - Inmate Property Receipt, 1 page  
Attachment F - Request/Authorization to Remove Personal Property, 1 page  
Attachment G - Special Property Inventory Form, 1 page  
Attachment H - Admission Property List, 1 page  
Attachment I - Kansas Department Of Corrections Electronic Checklist

**INTAKE PROPERTY**

The following items may be possessed by an inmate while on the Intake Incentive Level pursuant to IMPP 11-101.

ITEM	SPECIFICATIONS	QUANTITY	VALUE
Bible/Primary Religious Text	Approved by reception facility chaplain.	1	
Contact Lenses .....	May be in inmate's possession until replaced. Replace with eyeglasses from State contract unless health care provider determines that contacts are the preferred corrective device.	1	
Dentures.....	As prescribed by health authority.	1 set	
Drinking Cup.....	Plastic; no logo permitted; up to 16 ounces. If insulated, must be clear view/ /double walled.	1	CP
Eye Glasses .....	As received, prescription only.	1	
Letters, Personal.....		10	
Padlock	Combination type with key access, must be from Master Padlock series 36, 51, 58, 59, 60, 62	1	CP
Photographs.....	8" x 10" or smaller. Non-Polaroid, each separate image on multi-image sheets counting as one (1) photograph.	50	
Prosthetic Device .....	As received with inmate and approved by health authority.	As received	
Shower Shoes	As received with the inmate.	1 pair	CP
Religious medal, scapular, or crucifix	Approved by reception facility chaplain	1 item	20.00
Wedding Band.....	Plain, no stone.	1	50.00
Wristwatch.....	No stones.	1	25.00

**POST INTAKE PROPERTY  
(Alphabetical)**

ITEM	SPECIFICATIONS	QUANTITY	VALUE
Address Book .....	Not to exceed 8" x 9," to be purchased through canteen or special purchase order.	1	CP
Afro Curler .....		2 & CL	CP
Antenna (APPLIANCE) .....	Small UHF-VHF combination type; must be attached to TV.	1	CP
Athletic Supporter .....	Males only.	2	20.00 Total
Baby Powder .....		2 & CL	CP
Batteries .....	Minimum-security inmates, if allowed by General Order.	8	CP
Belt .....	Work release only; buckle may not exceed width of belt by more than 1/2".		Each 20.00
Bible/Primary Religious Text.....	Must be approved by facility chaplain.	1	
Bicycle .....	Work release only; permitted only if most suitable form of transportation.	1	100.00
Bicycle Lock	Work release only. Cable thickness of 10mm or larger.	1	10.00
Billfold .....	Work release only.	1	10.00
Blankets	Work Release Only	As approved by Warden	CP
Blow Dryer (APPLIANCE) .....	Female and work release inmates only. Hand-held only. Wattage restrictions and/or requirements as set by General Order.	1	20.00
Blue Book, AA Text.....		1	Current AA Rate
Books.....	Paperback or hard cover, from publisher or vendor only, but may be purchased by third parties for an inmate's use.	12	
Brassieres.....	Work release females only.	5	Each 20.00, 100.00 Total
Cable	Coax cable for cable TV hook up- Six ft. maximum length. Must be approved by the Warden	1	CP
Cakes .....		CL	CP
Calculator (APPLIANCE) .....	Display only; solar dual power only; pocket size.	1	25.00
Calendar .....	Issue by facility or commercially printed calendars received by mail. Calendars shall not contain metal bindings other than staples. Maximum size is restricted to an 11 inches by 17 inches open calendar.	1	CP
Candies		CL	CP

ITEM	SPECIFICATIONS	QUANTITY	VALUE
Cards .....	Poker or Pinochle.	2 decks	CP
Checkers .....	Plastic or wooden; factory manufactured, to include cardboard or paper checker board.	1 set	CP
Chess Set .....	Plastic or wooden; factory manufactured, to include cardboard or paper chess board.	1 set	CP
Chips .....		CL	CP
Clock, Alarm (APPLIANCE) .....		1	15.00
Coat .....	Work release only. No fur; no leather.	1	100.00
Cold Cream .....		2 & CL	CP
Cologne .....	Non-alcoholic; non-glass container only.	1	10.00
Comb .....	Plastic only.	1	1.00
Conditioner .....		2 & CL	CP
Contact Lenses .....	As received, may be in inmate's possession until replaced. Replace with eyeglasses from State contract unless health care provider determines that contacts are the preferred corrective device; may be in inmate's possession until replaced.	1 pair	
Cookies .....		CL	CP
Cosmetics .....	Work release females. Non-toxic; any combination.	10	30.00 Total
	Non-work release females. Hypo-allergenic.	10	CP
Coveralls .....	Work release only.	2	60.00
Crackers .....		CL	CP
Crochet Hooks .....	Plastic, flexible.	1 set	CP
Curling Iron (APPLIANCE) .....	Work release females. Crimp iron or electric rollers.	1	30.00
	Non-work release females. One barrel only.	1	CP
Dental Floss		2 & CL	CP
Denture Adhesive .....		2 & CL	CP
Denture Container (Cup)		1	CP
Denture Creme .....		2 & CL	CP
Denture Powder .....		2 & CL	CP
Dentures .....	As received with inmate or prescribed by health authority.	1 set	
Deodorant, Creme .....		2 & CL	CP
Deodorant, Stick .....		2 & CL	CP

ITEM	SPECIFICATIONS	QUANTITY	VALUE
Dictionary.....	In addition to book limitation.	1	
Dips .....		CL	CP
Dominoes .....	Wood or plastic; factory manufactured.	1 set	CP
Drinking Cup.....	Plastic; no logo permitted; up to 22 ounces. If insulated, must be clear view/double walled.	2	CP
Drink, Dry.....		CL	CP
Duffel Bag/Gym Bag.....	Work release only; 24" max. length.	1	25.00
Earplug (APPLIANCE).....		2 & CL	CP
Earplug Adapter.....		2 & CL	CP
Earrings .....	Females only. No precious metals or stones.	2 pair	15.00 Total
Emery Boards .....		2 packs & CL	CP
Envelopes.....	All sizes. No padded envelopes of any kind, including those containing "bubble wrap" as a component.	CL	CP
Extension Cord (APPLIANCE).....	6' max.; single receptacle; UL approved; grounded, 3-wire, 3-prong male plug or, if inmate living area is equipped with GFI outlet(s), a 2-wire, 2-prong male plug will suffice.	1	CP
Eye Glasses.....	As received during or after admission [with frames approved by the warden or designee] or as provided per health authority determination, prescription only. Unless required by Health Authority prescription, shall be non-tint, non-wired, non-mirrored, non-wraparound. Received eye glasses approved by a warden are transferable property.	1 pair	Frames limited to \$200, with claims replacement limited to value of eye glasses issued by Health Authority.
Eye Glasses, non prescription / reading	As received during or after admission [with frames approved by the warden or designee] Shall be non-tint, non-wired, non-mirrored, non-wraparound. Received reading glasses approved by a warden are transferable property.	1 pair	20.00
Fabric Softener.....	Work release females and males.	2 & CL	5.00
	Non-work release females. Hypo-allergenic items only.	2 & CL	CP
Fan (APPLIANCE).....	Blade size limited to twelve (12) inches diameter fan; electric; plastic blades; UL approved; safety guard. Additionally, on and after 04/01/97, the safety guard on all fans purchased by inmates through SPOs, or purchased by a facility canteen for resale to inmates, must be constructed of plastic.	1	CP
Feminine Napkins, Tampons, Pads.....	Females only.	CL	CP
File Folder.....	Non-metal only.	CL	CP
Footwear.....	Work release females and males. Sandals/thongs, shoes/boots (work/dress/casual), shoes (tennis/any color), slippers - any combination.	5 pair	80.00 max per one pair 100.00 Total

ITEM	SPECIFICATIONS	QUANTITY	VALUE
	Non-work release females housed at the TCF AE Compound may possess personal footwear as follows: Tennis Shoes (1 pair only limited to black, white, black/white combination, or black or white trimmed in gray, or 2 pair if on a medical boot restriction, with second pair issued by Health Authority); Work Boots (may possess up to 2 pair; however, if 2 pair are possessed, the second pair is in lieu of a pair of state issued. If on a medical boot restriction, no boots may be possessed); and one pair of either Dress Shoes or sandals/thongs or house slippers. No footwear shall be taller than the inmate's ankle.	Up to 4 pair per description	Tennis 80.00 max Work Boot CP Others 25.00 per pair
	Non-work release females, inmates housed at the IJ Compound. Tennis shoes (limited to black, white, or black/white combination), shower shoes. Work Boots (limited to purchase / replacement at those facilities whose wardens opt to offer the boots through the canteen and/or special purchase orders transferable to all other facilities, style/type & manufacture to be set by DSFM or designee, 2 <sup>nd</sup> pair of boots is in lieu of state issue boots)	1 pair each, tennis shoes & shower shoes. 2 pair boots, 2 <sup>nd</sup> pair in lieu of state issue.	Tennis 80.00 Shower CP Work Boot CP
	Non-work release males. Tennis shoes (limited to black, white, or black/white combination, or black or white trimmed in gray, or 2 pair if on a medical boot restriction, with second pair issued by Health Authority), shower shoes. Work Boots (limited to purchase / replacement at those facilities whose wardens opt to offer the boots through the canteen and/or special purchase orders transferable to all other facilities, style/type & manufacture to be set by DSFM or designee, 2 <sup>nd</sup> pair of boots is in lieu of state issue boots If on a medical boot restriction, no boots may be possessed)	1 pair each, tennis shoes & shower shoes. 2 pair boots, 2 <sup>nd</sup> pair in lieu of state issue.	Tennis 80.00 Shower CP Work Boot CP
Foot Powder .....		2 & CL	CP
Gloves .....	Work release only.	4 pair	16.00 Total
Greeting Cards	If sold in canteen, or Chaplain provides, then they cannot be purchased from an outside vendor.	10 & CL	CP
Gum.....		CL	CP
Hairbrush .....	Plastic only	1	5.00
Hair Accessories .....	Females only. Examples: barrettes, clips, ribbons, elastic bands, etc.	24	15.00 Total
	Males only - hair ties.	24	CP
Hair Dressing/Grease .....		2 & CL	CP
Hair Rollers .....	Work release females. Non-electric and fasteners.	30	10.00 Total
	Non-work release females. Foam only; small and medium size only.	30	CP
Hair Spray.....	Pump container only.	2 & CL	CP
Hair Straightener.....	Non-work release males and females. Lye free cream or gel	2	CP

ITEM	SPECIFICATIONS	QUANTITY	VALUE
	Work release males and females. Lye free cream or gel	CL	CP
Handkerchiefs.....	Work release only.	6	12.00 Total
Handicraft Tools and Materials .....	As provided in IMPP 11-101, also see IMPP 10-133.	CL	CP
Hangers, Clothes .....	Work release only. Plastic only.	30	10.00 Total
Hat/Cap/Visor .....	Work release only.	2	10.00 Total
Hat, Summer.....	LCMHF only. Style as approved by warden. With medical authority approval.	1	5.00
Headphone Extension (APPLIANCE) .....	Maximum length 12'.	1	CP
Headphones (APPLIANCE) .....	One large and one small.	2	CP
Hot Pot (APPLIANCE) .....	6 cup capacity limit; UL approved, non boiling.	1	CP
Ice Chest .....	6-pack size; hard plastic; no styrofoam.	1	15.00
Ice Cream .....		CL	CP
Lamp (APPLIANCE) .....	High intensity reading lamp; desk top.	1	CP
Laundry Detergent .....	Medium and minimum females and work release only. Non-toxic; hypo-allergenic.	2 & CL	CP
Laundry Starch .....	Work release females and males.	2 & CL	CP
	Non-work release females.	CL	CP
Letters, Personal.....		10	
Lotion, Aftershave.....	Non-alcoholic; clear plastic container.	2 & CL	CP
Lotion, Hand .....	Non-alcoholic; clear plastic container.	2 & CL	CP
Lotion, Suntan.....	Non-alcoholic; clear plastic container.	2 & CL	CP
Lunch Box.....	Work release only.	1	5.00
Mattress Pad. . . . .	Work release only.	1	20.00
Magazines .....	From publisher or vendor only, but subscriptions may be purchased by third parties for an inmate's use.	10	Cover price per copy
Medications / Over The Counter .....	Over the counter medications as specified by General Order may be purchased from local merchants by Wichita Work Release Facility inmates. Inmates at all other facilities are limited to the following items: -Acetaminophen, Aspirin, A&D	CL	CP

ITEM	SPECIFICATIONS	QUANTITY	VALUE
	Ointment, Alka-Seltzer, Alka-Seltzer Cold +, Acne-Peroxide Lotion – Benzyl Peroxide, Ben Gay, Carmex, Cough Drops, Chest Rub, Eucerin or Nivea Cream, Imodium, Motrin, Medicated Shampoo, Pepto-Bismol, Medicated Foot Powder, Metamucil Powder, Natural Tears, Hydrocortisone cream, Ibuprofen, Pepcid AC, Antacid tablets, Anti-fungal cream, Hemorrhoidal cream, Triple antibiotic cream.		
Mirror .....	Plastic; pocket size.	1	2.00
Model Cars .....	Finished product to be mailed out.	1	CP
Model Car Glue.....	Non-toxic, non-flammable.	1	CP
Mouthwash .....	Non-alcoholic, clear plastic container.	2 & CL	CP
Nail Clippers .....	Fingernail size.	1	CP
Needles .....	Bead craft, needle point, cross stitch and knitting per IMPP 10-133; Length and composition to be determined by General Order.	1 set per craft	CP
Newspapers.....	From publisher or vendor only, but subscriptions may be purchased by third parties for an inmate's use.	10	Cover price per copy
Nightwear .....	Work release females and males. Bathrobes, nightgowns and pajamas. Nightwear must be appropriate to inmate's gender and no shorter than 2" above the knee.	3	60.00 Total
	Non-work release females. Pajama type top and bottom - may include robe.	2 sets	40.00 Total
Notebooks .....	Non-metal only.	1	2.00
Nuts .....		CL	CP
Outerwear .....	Work release females and males. Shirts, blouses, pants, Skirts, T-shirts, sweaters, dresses, walking shorts, jackets, or blazers. Includes work, dress and casual clothes. Type of garment must be appropriate to inmate's gender.	30 items; limit	25.00 each item
	Non-work release medium and minimum custody females housed within the perimeter of the TCF AE-Compound may possess a personal clothing outfit. A dress, or a blouse/shirt and skirt combination, or a pants/slacks and blouse/shirt combination shall be considered one outfit.	1 Outfit	50.00
	Non-work release medium and minimum females only. Blouse/shirt and skirt, dress, or pants/slacks and blouse/shirt. (An outfit shall equal one dress, or a combination of top and bottom of the other articles.)	1 outfit	50.00 Total
Padlock.....	Combination type with key access; must be from Master Padlock series 36, 51, 58, 59, 60, 62	1 (Up to 2 at discretion of Facility Warden)	CP



ITEM	SPECIFICATIONS	QUANTITY	VALUE
Paint-by-number .....		CL	CP
Paints .....	Water based, per IMPP 10-133.	CL	CP
Pantyhose.....	Work release females.	CL	CP
	Non-work release medium and minimum females only.	2 pair	CP
Paper, Writing .....		CL	CP
Paper, Toilet	Work Release inmates as permitted by individual facility wardens	CL	CP
Pastries.....		CL	CP
Pen, Ballpoint.....	Non-retractable tip only.	CL	CP
Pencil, Drawing.....		CL	CP
Pencil, Writing.....		CL	CP
Perfume .....	Work release females. 2 oz.; non-alcoholic; non-glass container only.	1	10.00 Total
	Non-work release females. Non-alcoholic. Non-glass container only.	CL	CP
Permanent Products .....	Work release females.	2	CP
	Non-work release females.	CL	CP
Pillow	Standard size, work release inmates only.	1	10.00
Pillowcase. . . . .	Non-white, twin size, work release inmates only.	2	12.00 Total
Photo Album .....	Non-metal; non-glass; 10" x 14".	2	20.00 Total
Photo Frames .....	No larger than 8" x 10"; no glass, metal or plastic.	1	10.00
Photographs .....	Non-Polaroid, 8" x 10" or smaller, each separate image on multi-image sheets counting as one [1] photograph.	50	
Pick, Hair .....	Plastic only, no handle; no rattail.	1	5.00
Plastic Bowl, with lid, re-sealable .....		1	CP
Plastic Spoon.....		1	CP
Pop, Canned or plastic bottled.....		36 & CL	CP
Postage Stamps .....	Any denomination up to and including that which is required to mail a one (1) ounce First Class letter.	25	CP
Prepared Foods.....		CL	CP
Prosthetic Devices .....	As received with inmate and approved by health authority.	As received	
Purse .....	Work release females only.	1	20.00
Q-Tips.....		2 packs & CL	CP

ITEM	SPECIFICATIONS	QUANTITY	VALUE
Radio – AM/FM /Tape Player /or/ Clock Radio – AM-FM (APPLIANCE) .....	20" x 10" x 8"; may be radio, tape player, or radio/tape player (single cassette/tape deck) combination, standard cassette; equipped for headphone, earphone or earplug; UL approved. Only AM/FM Radios or AM/FM Clock Radios may be purchased by inmates on SPO or ordered by facility canteens. Existing appliances with tape player capability may be sold by facility canteens until the existing stock is depleted, and existing units held by inmates may be retained and transferred, but may be neither repaired nor replaced with anything except AM/FM Radios or AM/FM Clock Radios.	1 If device is an AM/FM Clock radio, no separate clock is permitted as personal property.	CP
Rain suit/poncho. . . .	Work release only.	1	15.00
Razor .....	Disposable only.	CL	CP
Razor, Electric (APPLIANCE) .....	Work release only, otherwise must be determined to be medically necessary by health authority.	1	45.00
Religious Beads (e.g., prayer, rosary) .....	Must be approved by facility chaplain/warden and received through chaplain/warden.	2	20.00 Total
Religious Head Garments	Must be approved by facility chaplain/warden and received through chaplain/warden.	2	25.00 Total
Religious Medal or Medallion with Chain.....	Must be approved by facility chaplain/warden and received through chaplain/warden. No precious metals or stones. Longest dimension may not exceed 2 inches.	1	20.00
Rug, Prayer.....	Must be approved by facility chaplain/warden and received through chaplain/warden.	1	25.00
Sardines, Canned .....		CL	CP
Sausages, Canned .....		CL	CP
Scissors .....	Sewing kit accessory, blunt tipped type, cutting edge no longer than 2", pure plastic construction only.	1	CP
Sewing Kit.....	Blunt tipped scissors only.	1	5.00
Shampoo .....		2 & CL	CP
Shaving Creme.....	Non-aerosol.	2 & CL	CP
Shaving Cup/Brush.....	Plastic only.	1	CP
Shaving Powder.....		2 & CL	CP
Shaving Soap .....		2 & CL	CP
Sheets, Bed	Non-white, work release inmates only	2	20.00 Total
Shirts, Under.....	Work release only.	7	20.00 Total
Shoe Insoles .....		CL	5.00
Shoe Laces.....	As appropriate to shoe style & color; black or white only for tennis shoes.	2 pair & CL	CP
Shoe Polish.....		2 & CL	CP

ITEM	SPECIFICATIONS	QUANTITY	VALUE
Shorts, Athletic.....	A minimum of 4" inseam, gray only.	2	20.00 Total
Shorts, Boxer or Brief .....	Work release males only.	7	20.00 Total
Shower Cap .....		2	CP
Slip, Full or Half .....	Medium and minimum females only.	1	15.00
Snacks .....		CL	CP
Soap, Bar .....		4 & CL	CP
Soap Dish .....	Plastic.	1	2.00
Soap, Liquid Dishwashing	Clear soap in clear plastic container, 12oz or less, prohibited in Segregation	1	CP
Socks .....	Work release females and males. Any color.	7 pair	15.00 Total
Socks .....	Non-work release females. Non-white socks only.	4 pair	10.00 Total
	Non-work release males. White tube.	7 pair	15.00 Total
Soup, Packaged .....		30 & CL	CP
Sport Glasses Strap .....		1	CP
Spreads .....	Food item.	CL	CP
Sugar Twin.....		CL	CP
Sunglasses .....	Non-mirror; non-prescription; non-wrap around; non-wire frame.	1	10.00
Surge Protector (APPLIANCE) .....	Single outlet or power strip type, no more than 6 outlets, UL approved.	1	CP
Sweat Suit [Basic]	Non-work release males and females. Plain gray; pullover hoodless; no logo; unaltered. No designer sweat suits, including those approved under previous policies, i.e. grand fathered prior to the effective date of this IMPP.	1	35.00
Sweat Suit [Designer]	Work release males and females. Designer styles of any fabric or color; may include a designer's / manufacturer's logo, but no printing or wording other than the designer's/manufacturer's name."	1	50.00
Tablet.....		CL	CP
Talc, Body.....		2 & CL	CP
Tape, Cellophane .....		2 & CL	CP

5-60

ITEM	SPECIFICATIONS	QUANTITY	VALUE
Tapes.....	Commercially produced recorded tapes, standard size cassette only. All tapes must be engraved with the Inmate's OMIS number. In lieu of one of the recorded tapes allowed within the limitation, a dry system tape head cleaner may be substituted. After the effective date of the current revision to this policy, no tapes nor tape head cleaners may be purchased by inmates on SPO. Existing tapes and tape head cleaners held by inmates may be retained and transferred, but may be neither repaired nor replaced.	15	10.00 Each
Television (APPLIANCE).....	B & W or color; 13" or smaller; equipped with earphone, headphone or earplug Any television equipped with a remote control may be either purchased by inmates through SPOs, or purchased by a facility canteen for resale to inmates, but the remote control unit may not be retained within the facility, and must be disposed of via normal property disposal procedures.	1	CP
Television Digital Converter (APPLIANCE)	Provides conversion from the new digital signals transmitted after 01/01/2009 to the analogue signals tunable by the majority of older existing Televisions.	1	CP
Telephone credit card .....	Wichita Work Release Facility only. May not contain any magnetic strip, bar code, or "smart card" technology.	1	CP
Thermos Jug.....	Work release only.	1	5.00
Thesaurus.....	In addition to book limitation.	1	
Ties.....	Work release only.	5	25.00 Total
Tissues .....		CL	CP
Tooth Polish.....		2 & CL	CP
Toothbrush.....		2 & CL	CP
Toothbrush Box .....		2 & CL	CP
Toothpaste, Tube.....		2 & CL	CP
Towel, Bath .....	Non-white; -work release inmates only	5	25.00 Total
Towel, Hand .....	Non-white; work release inmates only	5	15.00 Total
Towel, Wash Cloth .....	Non-white; work release inmates only	5	10.00 Total
Towel, Wash Cloth	Non-white, 12" x 12" maximum size; non-work release inmates, no red, blue, or green.	2	CP
Tweezers .....		1	CP
Typewriter (APPLIANCE).....	Electric or manual; non-memory type only.	1	CP
Under Pants.....	Work release females only, briefs only.	10	30.00 Total

ITEM	SPECIFICATIONS	QUANTITY	VALUE
Underwear, Insulated.....	Work release and TCF only.	3 pair	30.00 Total
Umbrella .....	Work release only.	1	10.00
Vitamins/Nutritional Supplements.....	Multi-purpose vitamins; type and brand authorized by health authority. Nutritional Supplements of a type, composition and manufacture as specified by the Deputy Secretary of Facility Management / designee	CL	CP
Wave Caps .....	White or Black only	CL	CP
Wedding Band .....	Plain, no stone.	1	50.00
Wig .....	As determined to be medically necessary by the health authority.	1	As prescribed
Wristwatch .....	No stones.	1	25.00
Yarn, Skein .....		CL	CP

5-62

**THE FOLLOWING ITEMS MAY BE TRANSFERRED WITH  
INMATES TO LARNED STATE SECURITY HOSPITAL**

PERSONAL ITEMS PATIENTS MAY HAVE: Shaving lotion, hair-dressing, shampoo, deodorant (no stick deodorant). ALL OF THESE ITEMS MUST BE LIMITED TO REASONABLE AMOUNTS and ALL MUST BE IN PLASTIC CONTAINERS.

- 1 Electric Razor, 1 Small Comb, 1 Toothbrush, Toothpaste (in tube only).
- 2 Books, 3 Magazines, 1 Pen or Pencil (must be less than 4 inches long), a reasonable amount of paper or stationery, postage stamps (any denomination up to and including that which is required to mail a one ounce First Class letter, not more than twenty five [25] stamps at one time).
- 1 Battery-powered Radio (must have earphone-jack but no antenna), 4 Extra Batteries.
- 1 Small Religious Medal (no chain).

DO NOT SEND ANY FOOD ITEMS, OR ANY TOILET ARTICLES OR GROOMING AIDS THAT HAVE A HIGH ALCOHOL CONTENT.

5-63

**Kansas Department of Corrections Inmate Personal Property Inventory**  
**PART I**

INMATE NAME & NUMBER: \_\_\_\_\_ DATE: \_\_\_\_\_  
 REASON FOR INVENTORY: NEW COMMITMENT\_\_\_ TRANSFER\_\_\_ STORAGE\_\_\_ OTHER (SPECIFY)\_\_\_  
 FACILITY WHERE INVENTORY TAKEN: \_\_\_\_\_

**SECTION I: INTAKE PROPERTY** (May be possessed during 120 day period of court jurisdiction & transferred to any KDOC facility, unless there is documentation that possession of such property would pose a danger to the inmate. The number in parentheses is the maximum amount allowed. Mark "None" if inmate does not possess the item. Describe Condition as Good (G); Fair (F); or Poor (P).

ITEM	AMOUNT/DESCRIPTION	CONDITION	DECLARED VALUE	INMATE INITIAL
(1)	Bible/Primary Religious Text	_____	_____	_____
(1) Pair	Contact Lenses	_____	_____	_____
(1)	Dentures	_____	_____	_____
(1)	Drinking Cup	_____	_____	_____
(1)	Extension Cord	_____	_____	_____
(1)	Glasses, Eye Prescription	_____	_____	_____
(10)	Letters, Personal	_____	_____	_____
(1)	Padlock	_____	_____	_____
(50)	Photographs	_____	_____	_____
	Prosthetic Devices	_____	_____	_____
(1) Pair	Shower Shoes	_____	_____	_____
(1)	Wedding Band	_____	_____	_____
(1)	Wristwatch	_____	_____	_____

**SECTION II: APPLIANCES**

ITEM	DESCRIPTION: MODEL/SERIAL #	QUANTITY/MAX	VALUE ALLOWED	CONDITION	DECLARED VALUE
Antenna	_____	(1) Canteen Price	_____	_____	_____
Blow Dryer	_____	(1) Canteen Price	_____	_____	_____
Calculator	_____	(1) \$10.00	_____	_____	_____
Clock, Alarm	_____	(1) Canteen Price	_____	_____	_____
Curling Iron	_____	(1) Canteen Price	_____	_____	_____
Ear Plug	_____	(1) Canteen Price	_____	_____	_____
Extension Cord	_____	(1) Canteen Price	_____	_____	_____
Fan	_____	(1) Canteen Price	_____	_____	_____
Headphone Extension	_____	(1) Canteen Price	_____	_____	_____
Headphones	_____	(1) Canteen Price	_____	_____	_____
Hot Pot	_____	(1) Canteen Price	_____	_____	_____
Lamp	_____	(1) Canteen Price	_____	_____	_____
Radio/Tape Player/Clock Radio	_____	(1) Canteen Price	_____	_____	_____
Razor, Electric	_____	(1) Canteen Price	_____	_____	_____
Tape Player	_____	(1) Canteen Price	_____	_____	_____
Tapes	_____	(1) Canteen Price	_____	_____	_____
Television	_____	(1) Canteen Price	_____	_____	_____
Typewriter	_____	(1) Canteen Price	_____	_____	_____

I certify the above is a correct inventory of my property.

Signature of Inmate \_\_\_\_\_ Number \_\_\_\_\_ Date \_\_\_\_\_ Officer Signature \_\_\_\_\_ Date \_\_\_\_\_

I certify that all property shown on this inventory was returned to me this date.

Signature of Inmate \_\_\_\_\_ Number \_\_\_\_\_ Date \_\_\_\_\_ Officer Signature \_\_\_\_\_ Date \_\_\_\_\_

Was the inmate present when property was inventoried? Yes \_\_\_ No \_\_\_ If inmate was not present, explain why \_\_\_\_\_

Officer Signature \_\_\_\_\_

5-64













**ADMISSION PROPERTY**

The following items may be retained by offenders at the time they are transported by a Kansas county sheriff to KDOC custody at a Reception and Diagnostic Unit (RDU). All other items shall be returned with officers transporting the inmate to the KDOC.

ITEM	SPECIFICATIONS	QUANTITY	VALUE
Bible/Primary Religious Text	Approved by reception facility chaplain.	1	
Contact Lenses.....	As received, may be in inmate's possession until replaced. Replace with eyeglasses from State contract unless health care provider determines that contacts are the preferred corrective device.	1	
Dentures .....	As received with inmate or prescribed by health authority.	1 set	
Glasses, Eye Prescription.....	As received.	1	
Identification Documents- Documents Will be retained by KDOC until release	Driver's license, social security card, birth certificate or any other form of identification in an offender's possession.	As received	
Letters, Personal .....		10	
Photographs .....	8" x 10" or smaller.	50	
Prosthetic Device.....	As received with inmate and approved by health authority.	As received	
Wedding Band .....	Plain, no stone.	1	50.00
Wristwatch .....	No stones.	1	25.00

5-70

**KANSAS DEPARTMENT OF CORRECTIONS ELECTRONIC CHECKLIST**

FROM FACILITY: \_\_\_\_\_

TO FACILITY: \_\_\_\_\_

EMPLOYEE INITIALS: \_\_\_\_\_

INMATE NAME: \_\_\_\_\_

NUMBER \_\_\_\_\_ DATE \_\_\_\_\_

Television

Volume Works  
On/Off Switch Works  
Reception Works  
Visible Cracks or Broken Parts

Packout  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_

Return  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_

Comments: Model / Ser. No. \_\_\_\_\_

Fan:

On/Off Switch Works  
Speed Control Works  
Visible Cracks or Broken Parts  
Fan Oscillates (if applicable)

Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_

Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_

Comments: Model \_\_\_\_\_

Typewriter:

On/Off Switch Works  
Keys Work  
Visible Cracks or Broken Parts  
Carriage Locks in Place  
(if applicable)

Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_

Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_

Comments: Model / Ser. No. \_\_\_\_\_

Radio/Tape Player

On/Off Switch Works  
Volume Works  
Reception Works  
FFW, REW, Switches Work  
Visible Cracks or Broken Parts

Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_

Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_  
Yes \_\_\_ No \_\_\_

Comments: Model / Ser. No. \_\_\_\_\_

Officer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Inmate Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Was inmate present when the checklist was completed: Yes \_\_\_ No \_\_\_

If inmate was not present, explain why?

Return Officer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Inmate Signature on Property Return \_\_\_\_\_ Date: \_\_\_\_\_

5-71

## **OVERVIEW OF DEPARTMENT OF CORRECTIONS AND ITS CLAIM PROCEDURES**

### **GENERAL INFORMATION:**

The Department of Corrections houses over 9,000 inmates throughout the state of Kansas in eight (8) different facilities.

Inmates have a lot of time on their hands.

The Department of Corrections has extensive Policies and Procedures. Some of those most relative to inmate claims and/or property are included in that bright orange book you have been provided. We necessarily have rules that must be followed, and our job is to apply the rules to the particular facts in any given situation.

Inmates are allowed, comparatively speaking, very little property. Every piece holds major significance to the individual inmate. The property that they can have, how much and even how they acquire it is controlled very closely by IMPP 12-120. This rule requires the inmate to be primarily responsible for their own property.

Keep in mind that sometimes the rules seem harsh, but they are harsh as a necessity. For instance, we have a process for accounting for the inmates' property. If the inmate takes possession of the property without properly checking it, once it leaves our possession most of the issues complained about cannot be verified, and the claim will generally be denied.

Because property is so important to inmates, it is a very good tool for privileges and incentives. If you look at IMPP 11-101, you will see how inmate "levels" are used to control their behavior. The amount of property that can be possessed is different at each level, and sometimes this will come into play in the various claims. For a quick and easy chart, look at Attachment A to IMPP 11-101, which is the third to last page of that IMPP. You can see that they progress and earn privileges and incentives, and they can lose the same for bad behavior.

Inmates are moved frequently for a variety of reasons, including maintaining control over the population (safety), census at individual facilities, industry needs at a particular facility, gang affiliations, work release needs, and family visitation.

When an inmate has a complaint, whether it be a personal injury or a property claim, there are procedures that they are to follow to get their complaint heard. These procedures can be found at IMPP 01-118. To summarize that IMPP:

The first level in this process is to the warden of the facility. The warden then submits his or her response. If the inmate is not satisfied with the warden's response, the claim can be appealed to the Secretary of Corrections. Generally speaking, those are dealt with by a designee, but are often reviewed by the secretary. If the inmate is not satisfied with the Secretary's response, he can either file a claim with your committee, or a lawsuit. Many do both.

#### WHAT I DO:

Once I receive a claim that is filed with this committee, I review it to see what information was submitted by the claimant and what clarification is needed. Generally, I will send the complaint to the facility where the incident occurred and ask them to investigate and get back to me with the results. Once I receive the information that I need to respond to that claim, I make a recommendation to this committee.

You may have noticed that we recommend that very few claims be paid. There are several reasons for this. First of all, truly legitimate claims are paid at an earlier level and don't make it to you. Second of all, there may be legitimate claims that exceed our authority and we simply can't pay them. Or third and most common, there is a genuine loss or injury to the inmate, but it is not something the State should be responsible for paying. Please keep in mind that the State is not an insurer. Our people are not there to guard the inmate's property.

I would also like to assure you that our staff, particularly management level, are generally long-term professionals, and I use that in the very best sense of the word. They are each and every one very good at what they do. Their goal is to see to it that each inmate works toward becoming a productive, law-abiding member of society.

One thing you might notice is that there is a special vocabulary used in prison. I'm still learning that, to tell you the truth, but some of the common terms you might hear are:

Crunch	Consumable items purchased at the canteen, such as chips
My house	My cell

6-2



Shake down	A complete search of an inmate's cell
The hole	Segregation
Rolled	Moved to a higher security level, such as from Medium to Maximum security
Black suits	Special teams of officers that conduct various operations such as forced cell extractions, shake downs, etc.