



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
P.O. Box 41100 • Olympia, Washington 98504-1110

March 9, 2021

TO: Reentry Case Management and Work Release Staff

FROM: Danielle Armbruster, Assistant Secretary
Reentry Division *Danielle Armbruster*

SUBJECT: **State v. Blake – Failure to Obey All Laws, condition violations, and Discipline in Partial Confinement**

In the Washington Supreme Court's recent decision, *State v. Blake*, the Court held that [RCW 69.50.4013](#) violated the Due Process Clauses of the state and federal constitutions because the statute criminalized simple possession of a controlled substance without requiring a *mens rea* element, such as knowing possession of the controlled substance. The Court refused to construe the statute to require such a *mens rea* element. As a result of the constitutional defect, the Court held that RCW 69.50.4013(1) was "void," and the Court vacated Blake's conviction under the statute.

Department policies [DOC 460.130 Response to Violations and New Criminal Activity](#) and [DOC 420.390 Arrest and Search](#) as authorized through [RCW 9.94A.716](#) and [RCW 9.94A.631](#), respectively, requires the Department to respond to new criminal activity committed by any individual on community supervision in the presence of an authorized employee when law enforcement declines to investigate or is unable to respond. This only applies in cases where those under our jurisdiction are sentenced to the Family and Offender Sentencing Alternative (FOSA).

Partial Confinement options (Community Parenting Alternative, CPA, and Graduated Reentry, GRE) are under [DOC Policy 460.135 Disciplinary Procedures for Work Release](#) and all violations are addressed via the infraction system.

In light of the *State v. Blake* decision, **effective immediately**, Department staff shall not arrest an individual under our jurisdiction for a new law violation that falls under RCW 69.50.4013. Further, Department staff shall not act on an alleged violation for Failure to Obey All Laws for any offense committed under RCW 69.50.4013 **OR** address this behavior by issuing a WAC 507 (Committing an act that would constitute a felony and is not otherwise included in these rules). However, should an individual possess a controlled substance that places them in violation staff are still required to address the infraction/violation as directed and authorized in DOC 460.130 Response to Violations and New Criminal Activity or DOC 460.135 Disciplinary Procedures for Work Release.

Since there are several questions regarding the application of this decision, to include the enforcement and sanctioning in response to alleged controlled substance possession, we will continue to collaborate with internal and external stakeholders to ensure the most accurate information gets to you in a timely manner.

Thank you for all that you do, and please stay safe.

DA:cm

cc: Executive Strategy Team
 Billie Peterson, Policy Program Manager
 Kara Withers, Policy Office Improvement Manager
 Tom Layne, Hearings Administrator
 Amy King, Labor Relations Consultant
 Ton Johnson, WFSE Labor Advocate