



STATE OF WASHINGTON

OFFICE OF THE CORRECTIONS OMBUDS

2700 Evergreen Parkway NW • Olympia, Washington 98505 • (360) 664-4749

October 29, 2020


Steve Sinclair, Secretary
Department of Corrections (DOC)

Office of the Corrections Ombuds (OCO) Investigative Report

Attached is the official report regarding the OCO investigation into the restriction of an individual from extended family visitation (EFV) with his daughter for three years due to one positive urinalysis. We look forward to working with DOC to amend current policies and practices to better ensure that all incarcerated persons' health, safety, welfare, and rights are protected while they are within state confinement.

Any member of the public who wishes to report a concern to OCO is welcome to contact the office at (360) 664-4749 or at the address above. All concerns are logged into the OCO database and used as part of its overall reporting to policymakers and analysis of issues within DOC.

Sincerely,


Joanna Carns
Director

cc: Governor Inslee

Summary of Complaint/Concern

On May 13, 2020, the Office of the Corrections Ombuds (OCO) received a complaint which alleged the following:

- The complainant, a White male, alleged that he was wrongfully infractioned for a 752 due to a faint line appearing on the urinalysis cup. The result of the infraction was that he was restricted from EFVs with his daughter for three years.

OCO Statutory Authority

- Per RCW 43.06C.005, OCO was created to assist in strengthening procedures and practices that lessen the possibility of actions occurring within DOC that may adversely impact the health, safety, welfare, and rehabilitation of incarcerated persons, and that will effectively reduce the exposure of DOC to litigation.
- Per RCW 43.06C.040, OCO has the authority to receive, investigate, and resolve complaints related to incarcerated persons' health, safety, welfare, and rights.

OCO Investigative Actions

- As part of this investigation, OCO reviewed DOC policies, interviewed the complainant, and made several attempts to negotiate a solution with DOC staff.

Summary of Event

The following are the complainant's own words:

I started using drugs when I was 15. Here I am on my fourth prison sentence because I have a problem with drugs. That's where I've been. I have a bad habit of using drugs and then to support that habit, I had to start selling drugs and that led me to incarceration. On my third prison trip, they finally offered me treatment, they gave me treatment in prison and treatment on the streets. I was real good in prison, hit the streets, did good, and then I had some bad events that took place and I had a relapse, and I didn't know how to cope with the relapse, and I spiraled out of control. They look at me as a dealer, not a user. They don't think I'm a drug addict because I sell drugs even though I sell drugs to support my habit.

Due to my addiction, I was sentenced to 15 years. Since coming to prison, I have been trying to find all of these activities. Trying to get into parenting classes, trying to get into drug treatment classes. Told that I can't get into these programs because I have "too much time." Told that these types of programs are only for people close to getting out.

My daughter turns 10 in November. Mom and Dad have been alternating on bringing her to see me every month since I've been incarcerated. I call her on a weekly basis and send her letters and cards. I picked up hobby of beading so that we can show loved ones that we care for them and I send her beading projects. I do video visits with her. I do my best to keep in contact with her.

EFVs provides for more of a bonding experience with your kid. When you have a visit in the visit room, it changes the dynamic because you're only allowed to sit at a table and play a board game. At an EFV, you can get personal time with your kid to be more comfortable. Creates more of a bonding experience. We play video games and play catch outside. I can read her a story when she goes to sleep. There's a lot more of that one on one experience than just a visit in the visit room or through the video visit.

I think three years of EFV [restrictions] is just outrageous. My daughter's paying the price. DOC doesn't look at it like that, they say you screwed up, now we need to punish you for it. That's how society tackles the whole issue of being a drug addict. DOC should be more inclined to keep families together than tearing them apart, more so than what incarceration already does.

OCO Findings

- OCO reviewed the photograph of the positive UA cup with the DOC Disciplinary Program Manager. The Disciplinary Program Manager's review indicated that the positive finding and the resulting infraction were sound as the faint line described was not in the test area of the cup. Based on the Disciplinary Program Manager's review and statements made by the complainant, OCO cannot substantiate that the UA cup was faulty or that the infraction was unfounded.
- Prior to the single 752 infraction, the last serious infraction that the complainant received was in 2012, which was for having received four general infractions (which becomes a major infraction). Prior to that, his third and only other serious infraction during his incarceration was for a diluted urinalysis sample in 2009.
- DOC Policy 590.100 states that individuals found guilty of a 752 infraction ("Possessing, or receiving a positive test for use of, an unauthorized drug, alcohol, or intoxicating substance") will not be eligible for EFV privileges within three years of the date of the offense.
- However, even acknowledging that the complainant may have in fact used the drugs and been rightfully infraacted, and also supporting the need for consequences in order to promote a deterrence to contraband and drug use in prison, OCO does not believe that a three year restriction on EFVs meets DOC's oft-stated commitment to supporting connections with incarcerated individuals' families, particularly for this complainant and his daughter during a critical time in his daughter's developmental life. Many people are in prison due to their addictions, as is clearly the case for the complainant on his fourth conviction, and placing any barriers in their relationships with their family members will not support them toward a better outcome upon release.

Recommendation

- Move the 752 infraction from a three year restriction to a one year restriction.



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

November 3, 2020

Joanna Carns
Office of Corrections Ombuds
2700 Evergreen Parkway NW
Olympia, WA 98505

Dear Ms. Carns:

The Washington Department of Corrections appreciates the opportunity to respond to the OCO Report on the 'investigation into the restriction of an individual from extended family visitation (EFV) with his daughter for three years due to one positive urinalysis' completed by the Office of Corrections Ombuds.

Recommendation	Response
Move the 752 infraction from a three year restriction to a one year restriction.	The department thanks you for the recommendation your office is making regarding EFV restrictions pertaining to a 752 infraction. The Department sees merit in reviewing all sanctions, infractions, and lengths of suspensions. The decision has been made that Assistant Secretary for Prisons, Rob Herzog, will work with staff to review the current sanctions, infractions, and length of suspensions and create recommendations by March 1, 2021, for the assistant secretary's consideration. There will be an invitation extended to the Ombuds office to designate a representative from their office to partake in the review. Changes that are adopted and implemented will be applied retroactively to any incarcerated individual who applies for consideration after an announcement to the incarcerated population is made by Prisons Administration of the implemented changes.

The information provided by the OCO was useful to ensure the Department of Corrections is doing everything it can to ensure an incarcerated person's time in the agency's facilities is a fair and safe space for all incarcerated individuals.

We also appreciate your team's understanding of the unique processes across facilities and the addition of policies and procedures being put in place to address them. We are working towards

"Working Together for SAFER Communities"



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proactivity and improving quality assurance processes throughout the department. Moving forward, Washington Department of Corrections will continue to collaborate with the Office of the Corrections Ombuds to implement additional policies, procedures, and security measures to continue to improve the facility operations.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steve Sinclair".

Steve Sinclair, Secretary
Washington Department of Corrections