



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

February 26, 2021

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 use of emergency restraints on an incarcerated individual at Clallam Bay Corrections Center’ completed by the Office of Corrections Ombuds.

The department has reviewed the Office of Corrections Ombuds report and has additionally completed an internal review of the incident and agrees this incident was an unnecessary/unreasonable use of force. However, this incident does not meet the legal definition of an excessive use of force as there are no facts to support it was carried out ‘*maliciously and sadistically for the very purpose of causing harm*’. Further, there are no facts to support officers acted to ‘*wantonly and unnecessarily inflict pain*’. The italicized language is included in the legal definition of the Constitutional standard for excessive force claims in alleged 8th Amendment violations. The department does agree with the Office of Corrections Ombuds assertion of an unnecessary use of force, and agrees this does not meet DOC policy standard as a reasonable use of force, and as such, following the review, the department has since opened an investigation and will be thoroughly investigating the entirety of the incident.

<b>Recommendation</b>	<b>Response</b>
Separate from the outcomes and improvements expected from the above systemic review, OCO recommends a review by DOC Headquarters personnel of this specific incident, that any appropriate disciplinary action is taken, and that there is consideration for changes to protocols, policies, and practices to ensure a more humane response.	Department leadership and use of force subject matter experts have completed a review of this incident and have since opened an investigation further into the incident.  Corrective action and/or discipline is only warranted after determining allegations of inappropriate conduct and/or policy violations may exist and brought to the appointing authority’s attention to



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	<p>determine if a just cause investigation is warranted. After the department's review of this incident, it is alleged the need to use force was unnecessary and unreasonable in order to secure the individual, conduct a search, and remove from the cell.</p>
<p>OCO recommends that DOC policies, protocols, and practices be amended to ensure the preservation of a person's dignity, particularly the covering of exposed genitals, when the person is being moved into and while in emergency restraints.</p>	<p>The Department agrees the need to offer a level of privacy to a naked individual is important, given the time and circumstances to offer appropriate privacy provided safety and security concerns have been mitigated.</p> <p>In this incident, employees attempted to cover the individual prior to removal from the cell. Although the covering fell off, and there appears to be no attempts to recover the individual, it is unknown if medical considerations and/or safety and security concerns existed to warrant medical screening and/or chair placement as the priority at the time.</p> <p>However, the Department agrees once the individual was safely secured in the chair, a privacy covering should have been appropriate given no other concerns to require otherwise.</p>
<p>OCO recommends that DOC policies, protocols, and practices be amended to address the appropriate use of the electric shock shield.</p>	<p>DOC policy and training already address the authorization and appropriate use of electronic control devices which include the shield.</p> <p>The Department will ensure that the initial activation will be reviewed as a part of the opened investigation.</p>



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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 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,

Steve Sinclair, Secretary  
Washington Department of Corrections