



STATE OF WASHINGTON

**OFFICE OF THE CORRECTIONS OMBUDS**

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

November 16, 2020

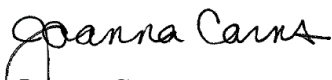
Steve Sinclair, Secretary  
Department of Corrections (DOC)

**Office of the Corrections Ombuds (OCO) Investigative Report**

Attached is the official report regarding the OCO investigation into the use of an emergency transfer of an incarcerated individual from Clallam Bay Corrections Center to Washington State Penitentiary. 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 December 2, 2019, the Office of the Corrections Ombuds (OCO) received a complaint which alleged the following:

- The complainant, a Black male, alleged that on October 22nd, 2019, while he was housed at Washington State Penitentiary (WSP), an emergency transfer classification review was held for him by DOC personnel at Clallam Bay Corrections Center (CBCC) against policy.

## **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 policy 300.380 Classification and Custody Facility Plan Review. In addition, OCO reviewed the complainant's statements and reached out to DOC staff.

## **Summary of Event**

Following a mass disturbance at CBCC, an incarcerated person was transferred from CBCC to WSP on October 9<sup>th</sup>, 2019. A classification review was held by CBCC DOC staff on October 22<sup>nd</sup>, 2019. On October 22<sup>nd</sup>, 2019, the incarceration person was promoted to minimum custody MI3, however he was currently being housed at a medium custody facility, which is allowed per DOC policy. The incarcerated individual appealed the review and process to HQ classification personnel, but allegedly received no response. He also used the grievance process.

The incarcerated person is not appealing his placement but is appealing the hearing process. OCO finds several policy violations with the classification review process and is concerned about the lack of clear policy language pertaining to emergency transfer hearings.

## **OCO Findings**

- DOC violated DOC Policy 300.380. The policy states certain requirements for the Facility Risk Management Team (FRMT) to follow. The policy states that the FRMT will include "the offender, unless s/he waives participation, the assigned case manager, the Correctional Unit Supervisor (CUS)/Community Corrections Supervisor (CCS), and a custody/security representative, for classification reviews conducted in Prisons," and a "Classification Hearing Notice/Appearance Waiver will

be provided to the offender at least 48 hours before the review, unless prevented by security or other substantial reasons.” Additionally, “the offender will be encouraged to attend the meeting. If the offender declines to participate, the case manager will document the reason in the Recommendations section of the CFP.”

- These requirements did not transpire for the complainant’s emergency transfer hearing. The incarcerated individual had already been transferred to another facility and so was not given the option to be present during the hearing, nor was he given a hearing notice form and waiver. Additionally, the required participating FRMT team members were not all present. Further, requirements dealing specifically with emergency transfers are not addressed in this policy.

### **Outcome**

- DOC agreed to convene a workgroup to evaluate the issue and develop policy language specific to emergency transfers by December 31, 2020. This policy language should include a clear framework, including notice, hearing, and appeal rights.



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

April 26, 2021

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

Dear Ms. Carns:

As it pertains to the Office of Corrections Ombuds' report on the 'December 2019 use of an emergency transfer of an incarcerated individual from Clallam Bay Corrections Center to Washington State Penitentiary,' the department convened a workgroup to evaluate and develop policy language specific to emergency transfers. Below are the drafted policy changes proposed for [policy 300.380 Classification and Custody Facility Plan Review](#):

**Page 5 of 19: Paragraph B. edited item:**

1. The individual, unless s/he waives participation, or unless it is an emergent priority transfer,

**Page 6 of 19: Paragraph D. new item:**

2. Any emergent/priority transfers that occur, the facility will ensure an expedited CFP is developed and FRMT is completed prior to transfer when at all possible.
  - a. Exceptions to this requirement will only apply for facility disturbances/emergencies and or emergent medical/mental health placements that cannot be managed at the sending facility.
    - 1) In emergent transfers, DOC 05-794 is not required prior to completion of CFP.
    - 2) A CFP will be completed by staff at the sending facility within three working days after transfer.
    - 3) A copy of the completed CFP will be provided to the individual at the receiving facility.
    - 4) The individual will be provided an opportunity to appeal the custody assignment noted in the CFP upon receipt of a copy of the plan.
    - 5) The individual will receive earned time for the month the emergent/priority transfer was completed.

**Page 15/16 of 19 Section VI. New H:**

- H. Any emergent/priority transfers that occur, the facility will ensure an expedited CFP is developed and FRMT is completed prior to transfer when at all possible.
  - a. Exceptions to this requirement will only apply for facility disturbances/emergencies and or emergent medical /mental health placements that cannot be managed at the sending facility.
    - 1) In emergent transfers, DOC 05-794 is not required prior to completion of CFP.

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- 2) A CFP will be completed by staff at the sending facility as soon as possible after transfer.
- 3) A copy of the completed CFP will be provided to the individual at the receiving facility.
- 4) The individual will be provided an opportunity to appeal the custody assignment noted in the CFP upon receipt of a copy of the plan.

An urgent policy revision will be requested and the additional language will be added. The policy review process will still need to occur, but internally this draft reflects our proposed policy language.

Sincerely,

A handwritten signature in blue ink that reads "Danielle Ambruster".

Danielle Ambruster, Assistant Secretary for Reentry  
Washington Department of Corrections