STATE OF WASHINGTON

OFFICE OF THE CORRECTIONS OMBUDS

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

November 17, 2020

Steve Sinclair, Secretary
Department of Corrections (DOC)

Office of the Corrections Ombuds (OCO) Investigative Report

Attached is the official report regarding OCO's investigation into the termination of an incarcerated person's suboxone treatment at Washington Corrections Center for Women. We appreciate the opportunity to work collaboratively with DOC to amend current policies and practices to better ensure the health and safety of all incarcerated persons 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

Joanna Carns
Director

cc: Governor Inslee

OCO INVESTIGATION
CONDUCTED BY ANGEE SCHRADER,
ASSISTANT OMBUDS - GENDER EQUITY AND REENTRY

Summary of Complaint/Concern

On March 10th, 2020, the Office of the Corrections Ombuds (OCO) received a complaint from an incarcerated individual at Washington Corrections Center for Women (WCCW), which alleged the following:

- The complainant alleged her medical provider terminated her from the Suboxone program due to false accusations of talking in the MOUD pill line. She was issued a minor infraction and removed from the suboxone program. She was later found not guilty of this infraction; however, she was still terminated from the suboxone program. She grieved this decision through the grievance process multiple times without resolution. The complainant said she experienced extreme withdrawal symptoms and pain as a result of the discontinuation of suboxone caused by the chemotherapy drug she was taking at the same time for cancer treatment.

OCO Statutory Authority

- Per RCW 43.06C.040, OCO has the authority to receive, investigate, and resolve complaints related to incarcerated individuals' health, safety, welfare, and rights.

OCO Investigative Process

As part of this review, OCO reviewed: (1) the complainant's medical records; (2) DOC Policy 600.000 Health Services Management; (3) State Opioid Response Contract; (4) WAC 137-28-370 Sanction Limitations; and (5) Offender Health Plan. In addition, OCO also reviewed DOC internal correspondence, grievances, infraction reports, Behavioral Observation Entries, and interviewed involved DOC staff.

Timeline

11/30/19	Complainant arrested and incarcerated at Yakima County Jail for a violation.
12/11/19	Complainant transported to Washington Corrections Center for Women (WCCW). An intake medical assessment is conducted and complainant is continued on the suboxone treatment. She is referred to see her primary care provider at the facility in two weeks for evaluation of her chemotherapy needs. Facility medical staff contact the community pharmacy to obtain more information related to chemotherapy medication; pharmacy could not confirm whether she had been regularly taking the medication prior to incarceration.

12/27/19	Complainant seen by primary care provider. Provider entered consult for complainant to see oncologist.
1/30/2020	Complainant seen by oncologist; DOC medical provider orders the chemotherapy medication.
2/1/2020	DOC custody staff accused the complainant of talking in the MOUD pill line. She was asked for her badge and sent back to her unit. She was then issued a 103 minor infraction, "Failing to follow any oral/written orders, rules, or policies not otherwise included in these rules."
2/3/2020	The DOC medical provider removed the complainant from Suboxone treatment. The complainant filed a grievance the same day, stating the following, "I understand that we were told when we go to MAT medication line, that there is no talking. Well, I asked someone to literally scoot down on the bench, and officer directed me to give her ID and sit in the waiting room, then was directed to go back to unit. I apologized and stated why I spoke. I take suboxone mainly because I have leukemia and OUD [sic]. I've not been infracted previously."
2/5/2020	Complainant receives chemotherapy medication.
2/10/2020	Patient seen by medical staff. Medical records note that she "presents with teary eyes, stuffy nose, continuous rocking and small fidgeting movements…difficulty eating…minor tremor with hands outstretched, states minor generalized body aches."
2/16/2020	Complainant was found not guilty of the 103 infraction written by DOC custody staff.
3/2/2020	The Grievance was responded to by the Grievance Coordinator and indicated that after an investigation, DOC found that "you were disruptive during MAT/MOUD line and were provided direction on several occasions to cease and comply with clinic rules…One [sic] the day you were removed staff confirmed the disruptive behavior and referred you back to your provider for continued participation in the program. Your provider made the decision to halt your participation in the MAT/MOUD program. The rules surrounding this program are in place to ensure patients and staff are safe and must be followed to ensure that safety. You will be scheduled to see an off-site provider to start Suboxone before your [sic] leave WCCW…"
3/6/2020	Complainant reported a medical emergency and was evaluated by medical staff. Staff noted that the complainant was experiencing vomiting since last night, and joint/muscle pain for the last three weeks. Complainant reported that pain was 8/10 everywhere on her body – worse within the last couple of weeks. She reported that her "joints [were] on fire."
3/26/2020	Complainant appealed grievance. She stated, "I was kicked off MAT/MOUD medline for talking. I was infracted, cameras were rolled back, and it was not me

talking. I was found not guilty. I have chronic mylo leukemia. My oncologist will prescribe narcotics (in the past) for pain management. Chemo causes extreme bone and muscle spasms throughout my body."

4/6/2020 Complainant seen by medical staff. She reports that she continued to have "chronic, unrelenting, total body pain. She is requesting another CRC evaluation for use of tramadol or suboxone...Patient now states her pain has gotten worse. She state [sic] pain involves her entire body, is worse at night and causes severe mm spasms…The medication was initially continued as her ERD is in July 2020, but had to be discontinued due to misbehavior in the clinic during suboxone PLN." The Chief Medical Officer reviewed and determined intervention is Level 3, recommending tramadol for the pain.

4/9/2020 Complainant reports to mental health staff, "I am not getting my pain meds so I am always hurting. I can't get back on the Suboxone program. My mind is always racing and I can't settle down and get any rest. I am getting out in a few months and that is making me anxious."

4/20/2020 The DOC Health Services Administrator responded to her grievance appeal stating, "You were removed due to disruptive behavior reports and infractions previously after receiving warnings to discontinue the behavior. Currently WCCW has suspended all MOUD inductions due to the COVID-19 outbreak."

5/11/2020 Complainant released without suboxone treatment reinstated.

Summary

The complainant was a Native American woman who suffered from an opioid use disorder and also suffered from a cancer diagnosis. Upon entry to WCCW, she was assessed by DOC staff and her prescription for suboxone treatment was continued. On February 1, 2020, the complainant attended the medication pill line to receive her suboxone treatment. DOC custody staff pulled her from the line due to allegedly "disruptive behavior" for talking. She received a 103 general infraction, which is classified as "Failing to follow any oral/written orders, rules, or policies not otherwise included in these rules."

Before the infraction hearing, the complainant was discontinued from the Suboxone program by her medical provider. She was subsequently found not guilty of the infraction, but still not placed back on Suboxone treatment. The complainant attempted to grieve the issue and the issue was not resolved. The grievance responses by DOC staff based their rejection on not just the infraction, for which she was ultimately found not guilty, but alleged prior incidents, for which OCO could find no documentation or record.

At the same time, the complainant experienced a two-month-long delay in receiving her chemotherapy medication. Review of the records indicates that, at her WCCW intake physical, the providers contacted her community pharmacy and could not confirm whether she had consistently been filling/taking this medication prior to her return to prison. Because of this, her

providers were not comfortable resuming the medication without input from her oncologist, and a consult to the oncologist was submitted. One month passed before she was seen by the oncologist, and it took almost another week after that for her to receive her chemotherapy medications. Although a cancer marker was found to have increased when compared to 2019, it is not known whether this increase was due to the two-month delay in getting medication versus potentially intermittent dosing while in the community. Ultimately, there was no evidence of harm that can be directly attributed to the lapse in treatment, but the two month delay is concerning nonetheless.

Key Findings

- **DOC failed to provide a full treatment plan with appropriate supports for persons utilizing suboxone treatment.**
    - According to the FDA, suboxone is indicated for the maintenance treatment of opioid dependence. The FDA recommends that suboxone be used as part of a complete treatment plan that includes counseling and psychosocial support. (https://www.accessdata.fda.gov)
    - Currently, counseling support is not offered to incarcerated individuals who are taking suboxone outside of the Therapeutic Community, which the complainant was not in.
    - In this case, the complainant was discontinued from her treatment for a minor behavioral issue.
        - Medical staff stated that during the time this incident took place, the Suboxone pill line was located in the medical unit and could have 30 to 60 incarcerated individuals in the line at a time. Medical staff told OCO this created a safety and security issue. The large number of people in the area combined with the perceived custody risk led to staff strictly enforce the rules on a minor behavioral issue such as talking in line.
    - Neither prior to the discontinuation nor after was counseling support or alternatives to discontinuation offered to the complainant.

- **Once DOC staff infracted her, the medical provider abruptly discontinued her treatment program, in contravention of FDA standards for suboxone treatment.**
    - Per FDA guidelines, when discontinuing treatment, a gradual taper should be used to avoid signs and symptoms of withdrawal. (https://www.accessdata.fda.gov)
    - The incident occurred on February 1, 2020. On February 3, 2020, the DOC medical provider discontinued the suboxone treatment plan, prior to the infraction hearing.
    - Further, the medical provider did not meet with the complainant before they removed her from the suboxone program, did not medically evaluate her, and the removal was based on a non-medical reason.
    - Last, the medical provider reported to OCO that she did not take into consideration the effects of suboxone withdrawal while on a chemotherapy drug.

OCO could not substantiate that the removal of the suboxone resulted in greater pain for the complainant, as her complaints of high pain have been consistent since at least 2017; however, suboxone is a recognized pain management tool and the medical provider should have taken this into consideration at a minimum.

- **After the complainant was found not guilty of the infraction, DOC failed to reinstate her treatment, nor was her attempt to grieve the issue through the internal grievance procedure successful.**
    - On February 16, 2020, the complainant was found not guilty of the infraction. According to medical staff, no notification was made to medical staff that the complainant was found not guilty of the infraction for talking in the MOUD pill line. Even though the infraction had resulted in the person's termination from treatment, there is currently no established pathway for medical providers to become aware of not guilty findings and to take correction action to reinstate treatment.
    - On February 3, 2020, the same day that the complainant was removed from treatment, she filed a grievance. The grievance was responded to a month later. Although she had been found not guilty in the interim, the grievance response from the Grievance Coordinator affirmed staff's removal of the complainant from the program and asserted that she had engaged in disruptive behavior.
    - The complainant appealed the grievance response, stating clearly that she had been found not guilty of the infraction. The grievance was responded to after another month by the Health Service Administrator, reasserting that she was removed due to disruptive behavior. Staff alleged that there were multiple incidents of disruptive behavior; however, not only had the infraction been dismissed, but OCO could find no record or documentation of any past incidents.

- **No written policy currently exists for the DOC MOUD program.**
    - Currently, medical staff provides incarcerated individuals the rules for the Suboxone program from the provider; however, OCO could not find a written DOC MOUD policy. DOC does not have an official MOUD program policy with guidelines for discontinuation of the Suboxone program.
    - DOC does not offer a clear pathway for an appeal if the medical provider discontinues the MOUD Program.

- **OCO substantiates a two month delay in chemotherapy medication from the point that the complainant was arrested to when she received her medication.**
    - The complainant was arrested on November 30, 2019 and transported to WCCW on December 11, 2019, but she did not receive her chemotherapy medication until February 5, 2020.
    - DOC medical providers reported that were hesitant in restarting the chemotherapy medication without input from the oncologist, as the community pharmacy that they contacted could not confirm whether the complainant had been regularly

taking the medication prior to incarceration. OCO believes that this hesitation is reasonable and appropriate.

- Although a cancer marker was found to have increased when compared to 2019, it is not known whether this increase was due to the two-month delay in getting medication versus potentially intermittent dosing while in the community. Ultimately, there was no evidence of harm that can be directly attributed to the lapse in treatment, but the two month delay is concerning nonetheless.

Outcomes

- **DOC agreed to create a clear, written policy and protocol available explaining the Suboxone Treatment Program while in prison.** OCO recommends a written MOUD policy for all medications for opioid use disorder and medically assisted treatment.

- **DOC agreed that the suboxone program should include check-ins with the medical provider, with better supports for the individual.** OCO recommends regular check-ins with the medical provider to address concerns and prevent continued negative behavior.

Recommendations

- **If a patient is discontinued from the suboxone program by medical staff, a gradual taper should be implemented instead of an abrupt stop. All medications the patient is currently prescribed should be taken into consideration before suboxone is discontinued.** OCO recommends a gradual taper of suboxone to be utilized when stopping the medication. The medical provider should review all available medical records and currently prescribed medications with the patient to ensure they receive appropriate care during withdrawal.

- **If medication or medical treatment is halted due to perceived behavioral issues, those issues need to be documented through infractions, BOEs or medical chart notes, with associated notification and appeal opportunities for the incarcerated person.** Further, grievance investigations into discontinuation of medication or medical treatment should rely on documented instances.

- With regards to the two-month lapse in chemotherapy treatment, there was no evidence of harm to the patient that can be directly attributed to this lapse. That the providers were hesitant in restarting the chemotherapy medication without input from the oncologist is also reasonable and appropriate. However, a direct phone call to the oncologist's office to obtain recommendations for restarting treatment would have allowed the patient to resume care sooner rather than waiting for an in-office consultation. **OCO recommends that, when a new intake's prescription medications cannot be confirmed through a community pharmacy, DOC staff should attempt to obtain verification by**

contacting the prescribing community physician's office, to avoid any potential delays in care.

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

December 23, 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 February 2020 termination of an incarcerated person's suboxone treatment at Washington Corrections Center for Women' completed by the Office of Corrections Ombuds.

Recommendation	Response
If a patient is discontinued from the suboxone program by medical staff, a gradual taper should be implemented instead of an abrupt stop. All medications the patient is currently prescribed should be taken into consideration before suboxone is discontinued. OCO recommends a gradual taper of suboxone to be utilized when stopping the medication. The medical provider should review all available medical records and currently prescribed medications with the patient to ensure they receive appropriate care during withdrawal.	The "Protocol for Management of Medications for Opioid Use Disorder at Intake to Washington Department of Corrections" has been revised and approved on August 24, 2020 and gradual tapering is addressed on page three of the protocol.
If medication or medical treatment is halted due to perceived behavioral issues, those issues need to be documented through infractions, BOEs or medical chart notes, with associated notification and appeal opportunities for the incarcerated person. Further, grievance investigations into discontinuation of medication or medical treatment should rely on documented instances.	The "Protocol for the Induction of Medication for Opioid Use Disorder" (pages 8-9) has been revised and approved on August 24, 2020. Now, if a patient is suspected of a behavioral issue pertaining to a medication or medical treatment, the medication will not be decreased or discontinued prior to a meeting between healthcare practitioner and patient. It is NOT recommended to discontinue medication treatment for suspected behavioral issues, but rather adjust the current treatment plan. All providers are expected to document their patient encounters. Patients are encouraged to utilize objective evidence to engage in the resolution process regarding any disciplinary infractions.

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With regards to the two-month lapse in chemotherapy treatment, there was no evidence of harm to the patient that can be directly attributed to this lapse. That the providers were hesitant in restarting the chemotherapy medication without input from the oncologist is also reasonable and appropriate. However, a direct phone call to the oncologist's office to obtain recommendations for restarting treatment would have allowed the patient to resume care sooner rather than waiting for an in-office consultation. **OCO recommends that, when a new intake's prescription medications cannot be confirmed through a community pharmacy, DOC staff should attempt to obtain verification by contacting the prescribing community physician's office, to avoid any potential delays in care.**	Primary care clinicians have the option to attempt phone consultation with a community specialist and that option for prescription confirmation will be further promoted to the agency's clinicians.

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