



STATE OF WASHINGTON

**OFFICE OF CORRECTIONS OMBUDS**

*PO Box 43113 • Olympia, Washington 98504-3113 • (360) 664-4749*

July 5, 2019

Steve Sinclair, Secretary  
Department of Corrections (DOC)

**Office of Corrections Ombuds (OCO) Systemic Issue Report**

Attached is the official report regarding OCO's work to resolve complaints regarding Behavior Observation Entries (BOE). We appreciate the opportunity to work collaboratively with DOC to amend current policies and practices to better ensure that all incarcerated persons' rights are protected while they are within state confinement.

OCO received 19 complaints regarding numerous BOE policy violations. OCO found concerns related to the inconsistencies between the practice of issuing and reviewing of BOE and policy, practice not reflecting part of the policy intent, and lack of training causing policy violations. Following this review, DOC staff immediately took action to address the concerns through policy revision and improved training.

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

**PREPARED BY SIGMA CHANG, INTERIM ASSISTANT OMBUDS – EASTERN  
DIVISION**

**Summary of Complaint/Concern**

As of June 13, 2019, the Office of Corrections Ombuds (OCO) received 19 complaints regarding Behavior Observation Entries (BOE) from various incarcerated persons across DOC facilities. The complaints regarded:

- Consistent failure to notify incarcerated persons of the entry of a BOE, violating policy 300.010(I)(F), thereby depriving them of due process and potentially catching them completely unaware when the entry or entries were presented in classification, Indeterminate Sentence Review Board, and Extended Family Visiting hearings and more.
- Opinions and/or judgements appearing regularly in BOEs, violating policy 300.010(I)(E), and an inability to remedy these violations via the current appeals process.
- BOEs being created for the same incident for which an incarcerated person also received an infraction.
- Staff using BOEs preemptively to confuse and obstruct incarcerated persons' ability to file grievances.

**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 Actions**

- OCO reviewed DOC policies 300.010 "Behavior Observations" and 460.000 "Disciplinary Process for Prisons."
- OCO reviewed related grievances, appeals responses, BOEs, and supporting documents
- OCO contacted DOC facility staff for clarification on processes
- OCO contacted DOC headquarters staff for clarification on policy and training
- OCO met with DOC executive staff to review the policy, present concerns, and discuss improving policy and training around BOEs

- OCO surveyed Correctional Programs Managers at the facility for their input on the current appeals process at the suggestion of DOC

### **OCO Findings**

- OCO confirmed that the non-notification of incarcerated persons at the time a BOE is entered is not an isolated occurrence and happened at multiple facilities to multiple incarcerated persons.
- OCO confirmed that language that constitutes opinion and/or judgement appearing in BOEs is not an isolated occurrence and happened at multiple facilities to multiple incarcerated persons.
- OCO confirmed that when submitted for review in the current appeals process, such language was not removed or amended without eliminating all opinions or judgments from the BOE.
- OCO confirmed that policy 300.010 did not prohibit the creation of a BOE for the same incident for which an incarcerated person was infraacted.
- OCO confirmed that in at least one occasion, a grievance coordinator turned back a grievance because a BOE was filed on the same incident. OCO could not substantiate that staff had done this intentionally to circumvent the grievance process.
- After receiving a presentation on BOEs, OCO learned that part of the policy intent for BOEs, behavior modification through positive reinforcement and a goal of four positive BOEs to each negative BOE, was not being accomplished through current practices.

### **DOC Actions and Outcomes**

- DOC immediately accepted OCO's request to meet and discuss improvements to BOE policy and practices.
  - As a result of the discussions, DOC executive staff have agreed to amend the BOE policy so that it requires:
    - Staff creating a BOE to deliver written notification to an incarcerated person immediately after it has been entered
    - That no opinions, conjecture, or judgments appear in BOEs
    - The timeframe for BOEs to be appealed be 10 days (extended from 5)
    - BOEs and infractions to be mutually exclusive
  - DOC committed to coordinate with OCO in developing and implementing better training so that policy is accurately reflected in facility operations
- DOC staff provided clarification that the BOE appeals process' function is to correct any policy violations regarding BOEs and to make a judgement as to the validity of the behavior described. Grievances outside of this, for example regarding staff conduct

which occurred in or around the incident the BOE, is grievable and current policy would not provide any protection against a grievance of this nature.

- Upon being notified of language in policy 460.000 Disciplinary Process for Prisons that general infractions should not be written for an incident for which an Onsite Adjustment (negative BOE) was issued, DOC agreed to amend the language so that it would be consistent with the BOE policy.

### **Additional Recommendations**

- OCO recommended that written notification of BOEs be uploaded to DOC's digital archive, OnBase, to eliminate the possibility of staff claiming they delivered the notification when they did not or an incarcerated person claiming they were not notified when they were. At the time of discussion, DOC staff responded that this would cause prohibitive workload problems and potentially impact the collective bargaining agreement.