

STATE OF WASHINGTON

OFFICE OF CORRECTIONS OMBUDS

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[Date]

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 mail issues experienced by incarcerated individuals within DOC. 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.

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

**SYSTEMIC MAIL REPORT**

**PREPARED BY**

**COURTNEY MISKELL, EARLY RESOLUTION INTERN**

**Summary of Concern**

As of August 27, 2020, the Office of Corrections Ombuds (OCO) received 144 complaints regarding issues with mail from incarcerated persons across DOC facilities. Additionally, OCO has received numerous informal complaints regarding mail issues from family members of incarcerated individuals.

Mail issues are extremely important to review as staying connected with family is essential to an incarcerated individuals emotional support and reentry[[1]](#footnote-1). This is especially important as visitation has been disrupted by the COVID-19 pandemic. Additionally, mail is also essential for incarcerated individuals’ ability to communicate confidentially with their legal counsel[[2]](#footnote-2).

The top complaints OCO received regarded:

* Mail rejection processes and timelines,
* Legal mail procedures, and
* Access to grievance procedures.

**OCO 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 regarding mail, examined appeal and grievance procedures surrounding mail, analyzed all OCO mail related cases, met with DOC staff who oversee mailroom and appeals processes, and obtained feedback from family members.

**OCO Findings**

* Mail rejections
	+ A majority of OCO cases related to mail involve concerns about mail rejections.
	+ Incarcerated individuals and senders are not always given a clear understanding of why their letter or package was rejected.
	+ Simultaneously, the timeliness of rejection notices does not always follow the timelines set out in policy.
	+ These issues can cause delays in receiving important communication and staying connected with family and friends.
* Legal mail
	+ The second most frequent issue found in OCO mail cases are concerns about legal mail.
	+ Incarcerated individuals expressed multiple concerns regarding legal mail that was opened by mailroom staff outside of the presence of the incarcerated individual which is required by DOC Policy 450.100.
	+ Some cases involved envelopes that may not have been clearly marked as legal or confidential mail, however multiple other cases resulted in delays in court proceedings, etc.
* Access to grievance procedures and timeliness of appeals processes
	+ As there is an already established appeal process for mail rejections, OCO has found multiple instances of incarcerated individuals being denied access to the grievance procedures regarding general mail room practices.
	+ Additionally, OCO has received multiple cases where individuals have not received their mail rejection notices, or it has taken a substantially long time to receive notices which can cause an undue burden on both the sender and receiver.
* Timeliness with JPay issues
	+ OCO found numerous complaints of JPay messages not being reviewed in the timelines set forth in policy.
* Mail being denied while an incarcerated individual is out of the facility
	+ OCO found two instances of mail being rejected for individuals who were temporarily outside of the facility causing delays in important communication.

**OCO Recommendations**

* Policy Clarification/Updates
	+ OCO recommends adding review timelines in policy for DOC to follow when processing appeals. Currently there are timelines for incarcerated individuals and senders, but it is unclear how long DOC has to respond to appeal requests. Clarifying the timeline in policy will create a clearer picture for all involved.
	+ Many OCO cases involved incarcerated individuals requesting information and clarification regarding specific mail policies. Two of the most requested relate to third party communication and indigent mail policies. OCO suggests that DOC clarify the definition of third-party communication in policy and ensure that information regarding access to mail for indigent individuals be readily available to incarcerated individuals.
	+ Additionally, OCO found numerous cases that involved mail being rejected for minor address issues. OCO reviewed mail related policies in four others states[[3]](#footnote-3) and found language that allows for reasonable attempts to be made to identify the intended recipient. OCO recommends editing mail policies for incoming addresses to include reasonable attempts to identify recipients that include a notification as to what was addressed incorrectly. This would allow the opportunity for senders and receivers to correct mistakes going forward to avoid delays.
	+ OCO recommends updating practices to ensure that individuals who are outside the facility for the day still have access to their mail and that it does not get rejected purely based on the fact that that individual is not in the prison when the mail is processed.
* Legal Mail
	+ OCO recommends that DOC document instances where mail appears to be legal but isn’t appropriately marked and share that information with the incarcerated individual and sender. This will paint a clearer picture for both the sender and receiver what needs to be changed in order for the mail to be processed appropriately.
	+ OCO recognizes an opportunity for education related to legal mail procedures for both incarcerated individuals and mail room staff.
* Annual Mailroom Audits
	+ OCO recommends yearly audits of each mail room which will provide an opportunity to highlight educational opportunities for both DOC staff and incarcerated individuals on general issues/items in policy that need to be clarified.
* Email options for appeal
	+ OCO recommends providing family members and other senders the opportunity to appeal mail rejections via email. Ideally there could be an online system or centralized email inbox that family members could write to in order to expedite the process for all involved. OCO recommends including this information on mail rejection notices.
* JPay
	+ OCO recommends that DOC paint a clear picture as to why JPay messages are rejected to both the sender and the receiver and include information regarding appeal processes and procedures along with the notices.
* Training for staff
	+ OCO suggests that DOC staff who serve as backups for mail room staff receive the same training as permanent mail staff.

**DOC Actions and Outcomes**

* DOC immediately accepted OCO’s request to meet and discuss improvements to mail policy and practices.
* As a result of discussions:
	+ DOC clarified that the Superintendent Designee who handles mail rejection appeals is never the employee who made the original decision regarding the mail rejection. It is typically the mail room sergeant who is the content expert on mail policies. They are reviewing the work of their employees who are the ones who review, read, and process mail.
	+ DOC clarified grievance procedures related to mail issues. Incarcerated individuals can utilize grievance procedures for mail related issues. However, they should utilize the appeals process for mail rejections and the grievance procedures for issues regarding the application of mail policy in a mail rejection or another issue regarding the mailroom.
	+ DOC clarified that family members can appeal mail rejections through emailing the facility general email or the Superintendent which will be forwarded to the mail room. OCO is hopeful that this will allow family members to access the grievance procedures in a timelier manner.
	+ DOC committed to conducting informal audits of the mailrooms at all facilities annually. This will provide an opportunity for DOC to ensure that policies are being applied consistently across facilities and learn of area for improvement and education for mail room staff.
	+ DOC committed to adding mail rejection appeal timelines for facilities and HQ to the next update of the mail policy in order to provide a clearer picture of how long the process can take. DOC clarified that typically a mail rejection process can take between 30-45 days to be completed.
	+ DOC clarified that the COVID-19 pandemic and has caused delays in mail review procedures as mail has increased by 300%, but that processes are improving, and staff are back on track with adhering to timelines established in policy.
	+ DOC committed to painting a clear picture in mail rejection notices as to why mail was rejected to minimize confusion and provide clarity on policy.

**Appendix**

1. Source: Washington Department of Corrections - https://doc.wa.gov/family/support.htm [↑](#footnote-ref-1)
2. Source: Brennan Center for Justice - https://www.brennancenter.org/our-work/analysis-opinion/protecting-fundamental-right-mail-prison [↑](#footnote-ref-2)
3. OCO reviewed policies from Oregon, Idaho, Nevada, and Nebraska.

Oregon Source: https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=963

Idaho Source: http://forms.idoc.idaho.gov/WebLink/ElectronicFile.aspx?docid=283201&dbid=0

Nevada Source: http://doc.nv.gov/uploadedFiles/docnvgov/content/About/Administrative\_Regulations/AR%20750%20-%20121713.pdf

Nebraska Source: https://corrections.nebraska.gov/system/files/rules\_reg\_files/205.01\_2019.pdf [↑](#footnote-ref-3)