



STATE OF WASHINGTON

**OFFICE OF CORRECTIONS OMBUDS**

*PO Box 43113 • Olympia, Washington 98504-3113*

November 15, 2019


Steve Sinclair, Secretary  
Department of Corrections (DOC)

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

Attached is the official report regarding the OCO investigation into an allegation of retaliation against a person incarcerated in the Helen B. Radcliffe Work Release Center. We appreciate the opportunity to work collaboratively with DOC to amend current policies and practices to better ensure that the rights of incarcerated persons 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

**REPORT PREPARED BY RILEY HEWKO, ASSISTANT OMBUDS – GENDER  
EQUITY AND VULNERABLE POPULATIONS  
OCO INVESTIGATION**

**Summary of Complaint/Concern**

On July 18<sup>th</sup>, 2019 OCO received a complaint that alleged the following:

- Complainant participated in a meeting at Seattle Central College with DOC administrators with authority over work release, the Office of Corrections Ombuds, and external stakeholders, in which she was the lead presenter to raise concerns related to work release conditions. Immediately following that meeting, and despite assurances from DOC administrators that no person would be retaliated against for participation in the meeting, the complainant was served with two infractions, removed from the work release center and placed in jail, and subsequently sent back to prison.

**OCO Jurisdiction**

- The complaint pertains to an “inmate” as defined in RCW 43.06C.010.
- Per RCW 43.06C.040, prior to filing a complaint with OCO, the inmate in question appealed her hearings decision; on August 30<sup>th</sup>, 2019 the DOC Appeals panel reviewed the sanction and decision and affirmed the process and decision upholding a finding of guilt and the sanctions imposed.
- OCO has the authority to initiate an investigation into the Department’s decision under RCW 43.06C.040.

**OCO Investigative Action**

- OCO staff interviewed both DOC staff and incarcerated individuals; reviewed hearings audio and thousands of pages of applicable documentation including kiosk records, email records, resident banking logs, room search logs, facility auto pass records; and reviewed DOC Policy 460.135 “Attachment 1 “Disciplinary Sanction Table for Prison and Work Release,” DOC Policy 550.100 “Offender Grievance Program,” DOC Policy 400.280 “Legal Name Change,” DOC Policy 110.110 “Work Release Management Expectations,” and DOC policy 450.110 “Mail for Work Release Offenders.”

**Investigative Findings**

- **OCO finds that, more likely than not, the evidence supports retaliation.**
  - On July 18, 2019, Seattle Central Community College (SCCC) hosted a meeting between DOC administrators with authority over work release, the Office of Corrections Ombuds, stakeholders, and SCCC students who resided at Helen B Radcliffe, Bishop Lewis, Reynolds Work Release Centers. The purpose of the

meeting was for SCCC students who resided in work release centers to share concerns regarding work release conditions and their suggestions for improvement.

- The complainant was the primary presenter during the meeting and she had created an extensive powerpoint with information on the concerns. While she was presenting, her residential room at the work release was searched. Staff began the infraction process for two rule infractions: (1) that she had cashed her financial aid check in contravention of work release rules and (2) that she had utilized social media in contravention of work release rules. She was subsequently placed in jail and later transferred back to the Washington Corrections Center for Women (WCCW).
- Four days later, on July 22, 2019, staff created a late entry in the DOC chronos log to document a confidential phone call that they had received at 8:00 or 9:00 am the morning of the meeting. This anonymous call reported that the complainant had accessed social media, cashed her financial aid check and was preparing a presentation on work release barriers that was a “smear campaign” against facility staff. The confidential caller also informed staff about the meeting and named several residents who were to be in attendance besides the complainant.
  1. Note: DOC administrative staff originally told OCO that staff who conducted the search were not aware that the complainant had attended a meeting related to work release operations. Based on the above chronos note and documents received in our public disclosure request, OCO finds this to be inaccurate and staff were indeed aware of her attendance and her role in building the content for the presentation at the meeting.
- OCO found evidence indicating that HBR staff were investigating the potential to infract the complainant and other participants for attending the meeting. On July 24, 2019, HBR staff emailed Reynolds Work Release Staff stating: “We have 2 offenders from our facility who attended the meeting, can you tell me what infraction you are using so I can do the same with an out of custody hearing? I want to all do the same thing...” On July 29, 2019, staff sent an email to Reynolds staff informing them of a Reynolds resident who was also at the meeting. They refer to the presentation as a “PP presentation to bash DOC?” and discuss the possibility of the resident’s preparation and attendance at the meeting being a #708 infraction. The email also states “Ombuds involved and creating a stir..BTW, Cate was arrested anyway..!”
- OCO finds that retaliation is not currently defined in any DOC policy related to the incarcerated population other than for reporting sexual abuse/harassment,<sup>1</sup> and that staff are not trained on what retaliation is and that it is in fact prohibited. OCO believes that retaliation is any adverse action of a DOC employee that is directly related to an incarcerated person’s grievance, complaint, or report of concerns.

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<sup>1</sup> OCO bases its definition on an analogous definition from the Prison Rape Elimination Act (PREA), retaliation is defined as “when an inmate or staff injures, harms, or intimidates a person who has reported sexual abuse and/or sexual harassment — or attempts to do so — in response to the report.” United State Department of Justice, PREA Final Rule, 2012; [http://ojp.gov/programs/pdfs/prea\\_final\\_rule.pdf](http://ojp.gov/programs/pdfs/prea_final_rule.pdf)

- Based on the above facts, OCO finds that more likely than not, DOC staff initiated the infraction process against the complainant at least in part due to the complainant's participation in the work release meeting.
- **OCO finds that staff were aware of the complainant's issues with her financial aid money, that staff infringed her weeks after the alleged incident and only after the meeting occurred, and that physical evidence does not corroborate the statements of the HBR staff interviewed.**
  - The complainant received a 660 infraction: "Possessing money, stamps, or other negotiable instruments without authorization, the total value of which is five dollars or more." This is a category B, Level 3 infraction. The basis of the finding of guilt was that the complainant received a financial aid check that she cashed converted into money orders and mailed to her mother without obtaining prior approval.
  - OCO confirmed that the complainant could not activate her pay card, the manner in which all work release students access their financial aid. This was due to the fact that the complainant's legal name is different than her DOC name. Here, the complainant's ID card issued by DOC was in her former married name, and her legal name with social security is her maiden name. Based on current policy, DOC requires use of the name someone has in their Judgment and Sentence for ID's and communications, not their current legal name. The pay card banking company would not allow her to activate her card without an ID in her current name. As the complainant was in custody, she also did not have access to other documents that could confirm her identity in a timely manner.
  - OCO confirmed that DOC work release protocols do not sufficiently address the situation for when someone received a physical financial aid check.
  - OCO found that on June 24, 2019, weeks prior to meeting, the complainant notified her CCO regarding the issue of her name being different on the pay card and requesting assistance for her financial aid payment that was enroute. Evidence indicates that this message was also read by the CCO the next day.
  - Complainant alleges she communicated with staff her complications with the pay card and that she would be receiving a check in the mail. Complainant further alleges that she was in fact given the check during the normal mail process by facility staff at control. This is in dispute.
    - In interviews with OCO, the three DOC staff at the facility denied that they had received or processed the check. The process at the facility is to log all checks coming into the facility and record receipt of all money or instruments of money on the Resident Banking IBS Tracking Log. The log

did not show evidence of the alleged check. They alleged that she went to the school to pick up the check in an attempt to conceal her act.

- However, OCO confirmed that on June 24, 2019, Bank Mobile mailed a check to the Complainant in her maiden name to the HBR address, 1531 13th Ave S. Based on this evidence, the check most likely arrived at the facility. OCO finds it very concerning that this evidence would appear to contradict the statements of the HBR staff interviewed and the mail log.
- In a meeting with DOC regarding OCO's preliminary findings, DOC staff then made the second supposition that perhaps the check had been rejected and returned to the bank since the name on the check would not have matched her name. OCO again confirmed with Bank Mobile that no check was returned to Bank Mobile and nor was a check issued from Bank Mobile to the school. OCO also found that a second check in the same name was sent to HBR and that check was appropriately connected with the complainant and forwarded to WCCW.
- OCO further finds that the complainant did not attempt to conceal her visit to money tree because she scheduled a documented Auto Pass to the Money Tree.
- OCO notes that the alleged financial aid check violation occurred weeks prior to the meeting and that she was only infracted after the anonymous call.
- OCO finds that the sanction of returning the complainant to prison with a loss of good time and other privilege restrictions is not warranted, considering that OCO found that evidence that the complainant notified DOC staff regarding her financial issues in advance, was actively working to find another method, and that DOC policies and protocols do not adequately address the complainant's situation.
- **OCO finds that the evidence used to find the complainant guilty was both one-sided and flawed.**
  - OCO finds that the CCO was not accurate in her portrayal of the evidence and in fact created a document that appeared superficially as a complete kiosk conversation. The CCO added several messages into chronos as "kiosk messages" that were not done on kiosk, and instead were excerpts from larger email messages between the CCO's work email and the complainant's Gmail account. She also created a document to utilize as evidence that included only the excerpts. The complete email message conversations were not provided to the hearings officer. The messages were also added on chronos on 7/20/2019, which was several days after the event.

- OCO finds that the evidence the CCO presented and that the hearings officer relied upon represent incomplete conversations. Upon review of the complete email conversations, OCO discovered:
  - Contrary to what was alleged in the hearing process, when asked, complainant had in fact responded to the CCO with screen shots of her pay card account showing that it was not activated due to an ID hold and that there was no activity on the card.
  - Contrary to what was alleged during the hearing process, complainant did not avoid conversations about Money Tree. The CCO provided her lack of response to questions regarding Money Tree as evidence of her “manipulating” behavior. However, in reading the full conversation, OCO believes the CCO’s request was showing the intent for a future conversation in-person, therefore making her lack of response to that question reasonable.
- OCO finds that during the disciplinary hearing, the CCO attempted to defame the character of the complainant, perhaps with the intention of creating bias on the part of the hearings officer. The CCO called the complainant “manipulative” and accused her of “staff shopping” and then played a phone call between the complainant and the complainant’s intended witness that had no evidentiary value but was solely for the purpose to “put on the record” the “hostile attitude against DOC.”
- When the officer asked if any other witnesses were to be called, the CCO immediately jumped in with recommended sanctions. The hearings officer did not address the fact that the complainant had earlier requested a witness and ensure that she no longer wished to call the witness.
- **OCO finds that the infraction and sanction for utilizing social media for non-criminal activity were also overly punitive.**
  - The complainant was charged with an 814 infraction. An 814 is described as “While in Work Release, violating an imposed special condition.” It is also a Category B, Level 3 violation. The sanctions for this violations are such that a finding of guilt would send any resident back to prison.
  - Complainant admits that she used social media while in work release.
  - OCO confirmed that residents are allowed to use social media on socials, just not at the work release facility.
  - OCO confirmed that the work release computer agreement gives no notification of the possible infractions that would arise for violating the agreement.

- According to the DOC website, “Work release facilities serve as a bridge between life in prison and life in the community. Incarcerated people at work release focus on transition, to include finding and retaining employment, treatment, re-connecting with family members, develop life skills, and becoming productive members of the community. They learn and refine social and living skills to create a smoother transition from prison confinement. Work release is an opportunity for self-improvement, while assisting incarcerated people in creating a safe and productive lifestyle that can be sustained upon release.”<sup>2</sup>
- As work release is intended to be a transition to life in the community, it is unclear why social media use would be prohibited in the first place. However, even if it is agreed that social media is and should be prohibited, OCO is of the firm belief that violation of this rule should not be included in an infraction process that results in a return to prison and loss of good time.

### **Outcomes**

- Staff informed OCO that they were already working on finding a way to navigate paper check options for financial aid.
- DOC agreed to create a clear protocol for using the inmate education account for situations in which an incarcerated person cannot for whatever reason receive financial aid payment in the normal pay card method, and include a system for accountability and verification.
- DOC agreed to create a definition for retaliation and include training for all staff on what it is and that it is prohibited.
- DOC agreed to initiate a workgroup to conduct a 360 evaluation of the work release environment, protocols, rules, staff training and disciplinary process, including input from both staff and incarcerated individuals, to determine how well work release conditions meet the expectation of a bridge to life in the normalized community.

### **Outstanding Recommendations**

- Given the evidence that the complainant did everything possible to inform staff as to her problem, staff did not assist her, and that there is evidence indicating retaliation, in addition to the lack of any societal benefit to keeping the complainant in prison, OCO recommended that DOC should reverse the 660 infraction and reinstate the complainant’s good time, which would result in the complainant’s release from prison. DOC leadership declined.

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<sup>2</sup> <https://www.doc.wa.gov/corrections/incarceration/work-release/default.htm>, accessed on October 24, 2019.

## DOC RESPONSE



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

December 13, 2019

Joanna Carns  
 Office of Corrections Ombuds  
 PO Box 43113  
 Olympia, WA 98504

Dear Ms. Carns:

The Washington Department of Corrections appreciates the opportunity to respond to the ‘OCO Investigative Report’ on retaliation in the Helen B. Radcliffe Work Release Center completed by the Office of Corrections Ombuds on November 15, 2019.

Outcomes	Response
Staff informed OCO that they were already working on finding a way to navigate paper check options for financial aid.	The Department has updated policy 200.000 Trust Accounts for Offenders to reflect all incoming monies be handled in the same manner, inclusive of educational grants and/or student loans.
DOC agreed to create a clear protocol for using the inmate education account for situations in which an incarcerated person cannot for whatever reason receive financial aid payment in the normal pay card method, and include a system for accountability and verification.	The Department has updated policy 200.000 Trust Accounts for Offenders to allow for the use of checks when an incarcerated individual is accepting their educational funding source and has revised the language that all checks be handled in the same manner. A memo stating the clear protocol and changes to policy will be distributed by the Assistant Secretary for Reentry by December 31, 2019.
DOC agreed to create a definition for retaliation and include training for all staff on what it is and that it is prohibited.	The Department of Corrections is working with the Attorney General’s office to create a definition of the word <i>retaliation</i> to add to the agency policy glossary by January 15, 2020. The definition will be included in agency training modules.
DOC agreed to initiate a workgroup to conduct a 360 evaluation of the work release environment, protocols, rules, staff training and disciplinary process, including input from both staff and incarcerated individuals, to determine how well work release conditions	DOC has reached out to National Institute for Corrections (NIC) for technical assistance on a 360 evaluation. On January 16, 2020, a multi-disciplinary workgroup will commence. A charter is being drafted and there is communication between OCO and Corrections

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meet the expectation of a bridge to life in the normalized community.	in reference to the workgroup timeline.
<b>Recommendations</b>	<b>Response</b>
Given the evidence that the complainant did everything possible to inform staff as to her problem, staff did not assist her, and that there is evidence indicating retaliation, in addition to the lack of any societal benefit to keeping the complainant in prison, OCO recommended that DOC should reverse the 660 infraction and reinstate the complainant's good time, which would result in the complainant's release from prison.	DOC reinstated 28 days of good time and the complainant was released to the community on Monday, November 18, 2019.

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 fair and supports the rehabilitation and reentry 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. Moving forward, Washington Department of Corrections will continue to implement additional policies, procedures, and security measures to continue to align with the Office of Corrections Ombuds recommendations.

Sincerely,

Steve Sinclair, Secretary  
 Washington Department of Corrections

*"Working Together for SAFER Communities"*

