



OREGON DEPARTMENT OF CORRECTIONS

OAR 291-131 Mail

Public Rules Hearing 9/16/24 Transcription

Julie Vaughn, Presiding Officer: I'm going to go ahead and start the formal portion of this hearing now. This hearing is recorded, and it is in session. My name is Julie Vaughn, and I am the presiding officer. Today is September 16, 2024 and the time is 1:05 p.m. The purpose of this hearing is to take comment— public comment on the Department of Corrections proposed permanent adoption of the rules regarding mail. These rules establish Department of Corrections policy and procedures, which govern the sending, receipt, and processing of adult in custody mail within Department of Corrections facilities. Within the inherent limitations of resources and the need for facility security, safety, health, order, discipline, and AIC (adult in custody) rehabilitation, it is the policy of the Department of Corrections to permit adults in custody to send and receive mail in the manner and under the circumstances set forth in OAR 291–131. The proposed revisions to OAR 291-131 Mail add a new rule that aligns the administrative rules with statutory requirements for the processing of adult in custody mail with the Corrections Ombudsman, remove gender language, and add clarifying language, and language for consistency with other department rules, change the term inmate to adult in custody, make minor grammatical and punctuation edits,

(02:00) and limit the type of envelopes, paper, and the use of certain materials related to incoming mail. The agency invites comments about whether options should be considered for achieving the rule's goals while reducing the negative economic impact on businesses or the public. In addition to presenting oral comments at this hearing, anyone may submit written comments until 5:00 p.m. on September 25, 2024, which is the close of the public comment period. Please send your comments to DOC Rules Coordinator at 3723 Fairview Industrial Drive Southeast, Suite 200, Salem, Oregon 97302, or via email at DOC.RulesCoordinator@DOC.Oregon.gov. The address is also provided in the notice of proposed rulemaking, and that can be found on our website. The page is www.oregon.gov/doc/rules-and-policies. Comments received after the close of the public comment period will not be reviewed or considered by the agency. We are now ready to begin the testimony portion, and I will call your name. When you are called, please state your name, where you're from, and if you represent an organization, please state the name of that organization, and then present your comments. Any questions at this time before we proceed? Okay. All right. We're going

(04:08) to start with Oregon Resident Steven. Steven are you here?

Steven : Hi. My name is Steven. I'm am an Oregon resident, and I've also, uh, did time within Oregon DOC. Um, I do not agree with the pro– proposed changes with the mail incoming. Um, as a ex-AIC, receiving, uh, colorful envelopes, and cards, and anything from the outside, is very beneficial to the AIC, um, and with the changes being proposed, it's just gonna cause problems. Um, it's also important to mention that receiving these type of things from the outside, um, helps with the guys and women that are incarcerated with their mental health, and stability on the inside to be able to be a productive adult in custody and not have issues with correctional staff. Um, in my opinion, I do not believe that the change of the color of the envelope or materials that

are sent in are going to help with any of the things described, like the illicit substance on envelopes. I have personally received envelopes or cards returned back to me due to the fact of illicit substance, and I know for sure that there is nothing on my envelope, and there is no way for an outsider to ask for a review on those, as it is a, um, one time chance of sending it in. So, it's more of us out here that are having to pay more money in stamp usage because of DOC staff staying that there is illicit substance on said object, and I know for a fact that most of us out here do not send in

(06:05) anything that could be considered illicit substance. Um, so, for me, I would like to help in a way to be able for us to continue to be able to send in the color envelopes, and also the drawings that friends and family send in, and kids send in to their dads and moms. Um, so, for me, I would love to have a sit down, and able to help come up with a solution so that these things are not taken away from us.

Julie Vaughn, Presiding Officer: Steven, thank you for your comments. We appreciate you taking the time to share that with us today. Um, just another, uh, request. If you have talking points, this goes for all of our presenters today, if you have talking points or notes that you are using today for your presentation, if you could send those into the DOC Rule Coordinator email address, that would be appreciated. We can put those in with the record, and all the comments will be reviewed, and we'd have those talking points in your notes. That would be really helpful. If you could get those sent into the DOC Rule Coordinator email address that I've shared already by the close of the comment period, we would really appreciate that. Thank you so much. Um, the next presenter will be Angela Kim.

Angela Kim: Hello. Thank you. My name is Angela Kim. I'm here in opposition to the proposed rule changes to OAR2911310025. I'm a legal assistant with the Women's Justice Project at the Oregon Justice Resource Center. This proposed rule is unreasonable, and it's out of touch with the needs

(08:00) of AICs and their families, and is contrary to state and federal law. It also contradicts overwhelming research and AIC accounts confirming that contact with family and other community supports is critical for successful reentry and rehabilitation outcomes. The proposed rule should not be adopted. ODOC asserts that these new rules are needed to help stop drugs getting into prisons through substance infused paper yet the agency has not provided data on how widespread the problem is or how the proposed rules would solve this issue. I know from my 17 1/2 years incarcerated at Coffee Creek that a major source of drugs entering prisons is through the staff. The agency has not announced plans to address possible staff involvement in drugs being brought into prison. While incarcerated, I maintained a relationship with my children through visits, phone calls, and most importantly through the mail. My children lived in California, so we only visited in person four times a year. Phone calls were expensive, so we spoke on the phone only once a week. I would mail each child their own letter filled with notes, origami, and drawings. In return, I received cards, drawings, and letters, and each one was a treasure. I have saved every one of them. Currently, and during my incarceration, ODOC provides coloring pages, crayons, colored pencils, and markers in the Coffee Creek visiting room. Parents and children bond over drawing and coloring together. However, at the end of visiting sessions, mothers are not allowed to take the drawings back to the housing units. Children are often upset and tearful that they aren't allowed to gift their drawings to their parents. Thankfully the children could at least subsequently mail the pictures to their parents. My mother

told me how much fun they had choosing cards and pretty colored envelopes to mail to me. Devastatingly,

(10:01) the proposed rule changes would prevent all these drawings from getting to parents. The OJRC believes the proposed rule is antithetical to AIC's rehabilitation and preparation for successful release into our broader communities. The proposed rule with further cut AICs off from the outside world, completely contrary to what research and countless stories tell us about what is the best interest of incarcerated people's rehabilitation and preparation for successful release. The proposed rule seemingly limits incoming mail to the formal stark format that governments or businesses would have typically used in mailings in decades of the past. Under these restrictions, AICs may be unable to receive mail sent out by present day community organizations, community services, schools, agencies, etc., which commonly print forms and information on paper of various colors and weights. Additionally, the strictness of the new require- requirements, may also be difficult for some families to comply with, especially those with limited means to purchase the right papers and envelopes. It is also important to recognize that since-

Julie Vaughn, Presiding Officer: Pardon me, Angela?

Angela Kim: Yes?

Julie Vaughn, Presiding Officer: Pardon my interruption. I just wanna remind everyone that you have 3 minutes to provide your testimony today, and I'll keep track, and I- I hate to interrupt with that reminder, um, but if you could wrap up your comments, we'll go ahead and move to the next presenter. Um, again, please send in any notes and, um, you know, any talking points that you prepared so that we can consider those when we do our review. Thank you for letting me interrupt. Go ahead and wrap things up. Thank you, Angela.

Angela Kim: This proposed rule presents significant concerns about the rights protected by the first amendment to the United States Constitution. The proposed changes would create a burden on the AIC's ability to exercise their first amendment rights. Courts (12:03) have identified first amendment concerns in similar cases where, like with the proposed rule, prisons have imposed unreasonable restrictions on AIC's mail. Please see OJRC's submitted written testimony outlining our significant concerns in detail. You're welcome.

Julie Vaughn, Presiding Officer: Thank you, Angela. Thank you so much. Um, just to help folks, I will go ahead and start the timer and at 30 seconds, I'll hop back in, just give you a little 30 second warning, and then hop back out, just so you know that it's time to wrap up your comments. That way we have time for every- everyone who's registered to provide their testimony and keep things running smoothly. So, I hate to pop in and interrupt, but just know that I'm doing that to keep things smoothly and just me to hop in. Okay. So, next, uh, presenter will be Mary Pierce.

Mary Pierce: My name is Mary Pierce, and I'm a resident of Oregon, and I am a peer support specialist with Welcome Home Oregon, a reentry group out of Josephine County as well as the insight alliance. Both, uh, also being an AIC who served 10 years in the Coffee Creek

Correctional Facility. So, personally, I'd like to say what it meant when I would get birthday cards and Christmas cards from my family, from my grandchildren. My grandchildren would send me cards that they'd written in, and, uh, my daughter would tell me how she would go down, and she could— she could afford to get the pretty card. She would budget for that specifically. I think it's very important for the mental health of the AICs to be able to get cards.

As Welcome Home Oregon, we send

(14:03) in Christmas cards to all of our, um, people who are in prison out of Josephine County. The Insight Alliance sends in newsletters packed with great information, uh, building stories to help people in their mental health and understanding how their minds work. I think that it would just be awful if you— if the DOC changed that mail rule. I send in, personally I have a lot of people, men and women, that I, um, uh, communicate with and have connection, and I really want them to know I send in cards every couple of months just to let them know that they're being thought of, and it makes all the difference in the world when coming underneath your door, or onto your bunk, is here's that bright colored envelope coming from a friend or family. So, I'm just asking that, um, all of these things need to be taken into consideration. You know, the drugs, it's an epidemic everywhere, but I, myself, had never, in 10 years, heard of anybody getting drugs in through the mail. Yes, I heard of lots of officers or staff bringing them in, but not, um, not coming in through the mail. So, I do appreciate, um, that there is this opportunity for the public to give their 2 cents. I hope it makes a difference because it makes a difference to me and to the people that are still in Coffee Creek. So, thank you so much.

Julie Vaughn, Presiding Officer: Mary, thank you so much. Um, next presenter, we will be calling Kyle Black.

Kyle Black: Okay. Here we go.

Julie Vaughn, Presiding Officer: Here we go, Kyle. Thank you.

Madison Warren: Um, my name is Madison Warren, and I'm a resident of—

Kyle Black: Kaiser, Oregon.

Madison Warren: Kaiser, Oregon, and, uh, what

(16:11) I have here today is very important to me. Why was it important to you to be able to send your mom your art and cards because it was something that made my mom smile about, and it's something to help your mom know that she was— has someone special waiting for them— them, and the cards show you how much that kids miss it— miss their moms. If the kid— kids aren't able to do that, then the kids would be sad, and the moms would be sad.

Kyle Black: Thank you, and hi. My name is Kyle Coleen Black, and I served 27 years incarcerated in the state of Oregon. Right now, on my refrigerator, are pictures that my daughter drew for me while I was there. I also have drawings that my father sent to me before he passed away. These items are precious to me. Men and women who are incarcerated are already separated from their loved ones and have limited connection with them and the outside world. This mail rule change will only increase the amount of separation that they have with their families in looking over— in— in looking over the amount of support I received through cards,

letters, and drawings, I know that I did my time well because I had connection to people I loved, and who loved me, and was able to release with purpose and support. I am frustrated because the measure that says it will have a positive impact on racial equity is a dis- disingenuous statement, as marginalized families will greatly be affected by reducing the main form of , communication that they use given how difficult and expensive the phone and video system is. In the (18:02) time I spent in prison, allowable mail decreased year by year, always with the intention of eliminating drugs in the prison setting. These attempts have been futile. The proof is that 30 years later, DOC is still trying to address the same issue. An innovate plan would be to spend more time incorporating meaningful access to treatment and programs for the 7,000 people incarcerated who have a substance abuse disease instead of, yet again, attempting to address the issue with a restrictive and punitive solution. Thank you, today.

Julie Vaughn, Presiding Officer: Thank you, Kyle. Great job, Madison. Thank you for joining us today. Um, we're going to go ahead and move forward with our next presenter, Lauren Orlando. Lauren, are you with us today? Okay. Let's go ahead and try calling Lauren. Let's call Lauren back up in a minute. We'll move to the next presenter. Um, Mariana Medina.

Mariana Medina: Hello. Uh, hi.

Julie Vaughn, Presiding Officer: Thank you for joining us today. Go ahead and begin your comments. Thank you, Mariana.

Mariana Medina: All righty. Hi. My name is Mariana Garcia Medina, I use she/her pronouns, and I'm with the ACLU of Oregon. This testimony is on behalf of the ACLU- ACLU of Oregon. We are a nonpartisan, nonprofit organization dedicated to the preservation and enhancement of civil liberties and civil rights with more than 28,000 members state wide. Um, today we're talking and putting in our testimony because we strongly oppose the mail rule making changes to the Department of Corrections, Chapter 291, that restrict the type of mail adults in custody can receive. Um, for us, the limitation of the mail, um, (20:03) these restrictions limit the ability of adults in custody to have constructive written communications with the outside world, um, which raise freedom of speech concerns. Um, it would prevent certain materials shared with adults in custody, also known as AICs, from their loved ones, community, educational, and religious organizations. This new rule, as proposed, would limit communication between families, children, and their loved ones incarcerated at DOC facilities, um, by prohibiting the type of crayons, markers, colored pencils, ink, and also type of paper, which really limit what kind of materials AICs can receive in custody. Such severe restrictions on an AIC's ability to communicate with their families and loved ones is also counterproductive of the public safety since studies have shown that AICs are less likely to reoffend when they are able to maintain close ties with family and other support networks in the community. Lastly, highly restrictive communication rules that can impact the mental health and close relationships of people in DOC custody risk running a fall of constitutional protections like the Oregon Constitution Prohibition on treating confined people with unnecessary rigor, um, and my testimony can show exactly where that lies. Much of the mail that is likely to be prohibited by the proposed rule may be safe. The resulting disconnection from family and community, along with DOC's interest and obligation to promote rehabilitation cannot be ignored. The Department of Corrections has, um- has been shown how necessarily this will be able to- how it

would be completely necessary to serve the security interests it espouses. With that, and for these reasons, the ACLU of Oregon strongly oppose the Department of Corrections proposed rule making changes to Chapter 291. Thank you.

Julie Vaughn, Presiding Officer: Thank you so much for your comments. Um, let's call one more time for Lauren. Lauren Orlando, are you with us online or on phone today? Okay. So, um, with that, we have, uh, (22:13) called everyone who is registered to testify today. Is there anyone here that would like to register right now and provide your comments? Um, Zach Winston, I— I see that your hand is up.

Zach Winston: Yeah. Hi.

Julie Vaughn, Presiding Officer: Do you have a question?

Zach Winston: If you could take Alisha first, and then if I could go after?

Julie Vaughn, Presiding Officer: Okay. Would you like to testify?

Alisha Price: I— I would. Yes, please.

Julie Vaughn, Presiding Officer: Okay. Let me get some information. Um, let me just— I'm gonna put this down for the record, and Alisha— Alisha Price?

Alisha Price: Yes, ma'am.

Julie Vaughn, Presiding Officer: Okay. So, um, we'll go ahead and start, on Zach's request, we'll go ahead and let Alisha go first, and Alisha can you please, uh, provide an address and your affiliation?

Alisha Price: Absolutely. So—

Julie Vaughn, Presiding Officer: You can email this to me too as well, with your comments.

Alisha Price: Okay. Um, it doesn't matter.

Julie Vaughn, Presiding Officer: You can say your city and state.

Alisha Price: Oh, just my city and state? Okay.

Julie Vaughn, Presiding Officer: Yeah. You don't need to share your home address.

Alisha Price: My home address. So, I am actually from Great Falls, Montana. My husband is in Oregon Prison.

Julie Vaughn, Presiding Officer: Okay.

Alisha Price: Um—

Julie Vaughn, Presiding Officer: All right.

Alisha Price: So, we live a good 9 1/2 hours away from him, and by this being put into place, it restricts pretty much everything that we can do to be close to him. My daughter (24:03) and my son, you know, they're his kids, 14 and 13. They love drawing him pictures. They love sending him cards, writing him letters, and if that gets put into place, then that restricts it. We have the messaging and the phone calls. Phone calls are \$3.00 a phone call, and 25 cents a message, where your message is pinned, and you end up paying more to send more messages because they absolutely restrict everything. It's ridiculous. And putting more restrictions on the mail, like, a lot of the time, the mail gets sent back to us for no reason. They're like, "Oh, it's got—it's got something on it." Or, "You said something that's inappropriate," and you know? That's my husband. You know? He's a grown man. I should be able to talk to him, but, uh, putting more restrictions on it, you guys already have so many restrictions. Like, they need to be able to have something. We need to be able to have communication with him and contact with him. We can't go see him. We get to see him maybe twice a year because he's in Oregon and we're in Montana. Putting more restrictions on that, that makes the family suffer, that makes the kids suffer, and I mean, they're already suffering enough. They're away from their loved ones. We're away from our loved ones. We're away from our family already, and we shouldn't have to be more disconnected with them. My husband, right now, is in, uh, solitary confinement. He's been in there for 10 months. Without the letters and stuff, he would go absolutely crazy. It's already making him absolutely crazy. It's not healthy for them. So, by taking more away from them, their mental health is going way downhill. It's— It's not a good idea, and (26:05) I don't even understand why it's being proposed like that. I understand the fear of drugs coming into the prison. Well, by doing that, you're still gonna have drugs coming into the prison. It's— you're not stopping it. Staff bring it in, there's other ways that it get in, and a lot of times, nothing comes through the mail. It doesn't, but they will send it back and say, "Oh, there's— there's something on this." Like, you got water droplets because it was raining.

Julie Vaughn, Presiding Officer: 30 second warning.

Alisha Price: All right. Well, I'm— I'm completely against it. I don't— I don't believe that it should be put in place. It's definitely not healthy for the inmates, not healthy for the families, and, uh, we shouldn't be apart. We're already apart. We need to be as close to them as possible. That way when they get out, they have the chance of staying out and not going back.

Julie Vaughn, Presiding Officer: Alisha, thank you so much for your comments. Um, again, I can't— I can't, uh, push this enough here. Please send your— any written notes or anything to me. Um, so that we can include that, a written copy for the record. Okay. Next, Zach, did you want to present as well? Okay.

Zach Winston: Yes, please.

Julie Vaughn, Presiding Officer: Um, your address?

Zach Winston: Sure, uh, Port— Portland, Oregon.

Julie Vaughn, Presiding Officer: Thank you.

Zach Winston: Sure. So, my name is Zach Winston. I'm the director of policy and outreach with the Oregon Justice Resource Center. Just a couple quick remarks here. Uh, I just wanted to mention that it's important to recognize that since ODOC has instituted its onerous phone validation policy, uh, many AICs are confined to mail as their only means of communication with the outside world. Um, we've had numerous clients share with us the challenges they face because they, um, have not been able to

(28:00) maintain adequate contact with their family and community supports. Um, lack of contact with loved ones makes it more difficult to cope with life in prison, maintain hope that fuels rehabilitation, and to plan for returning to the community. Further limiting communication through the proposed restrictions on mail could clearly be detrimental to rehabilitation and successful reentry planning, and moreover and importantly, the proposed rules, in violation of ROS 423.160, which is also known as the Bill of Rights of Children of Incarcerated Parents, demonstrates a disturbing lack of consideration for the challenges faced by children who are separated from their parents through incarceration and the critical importance for children to have opportunities to maintain contact with an incarcerated parent. So, OJRC will be submitting written testimony, but Julie, I appreciate you giving me the chance to— to make a quick statement there. Thank you.

Julie Vaughn, Presiding Officer: Thank you. Thank you for your words, Zach. Um, and it looks like we have Karen Cain, who has her hand up. Karen, would you like to provide some comments today?

Karen Cain: Sure. Can you hear me okay?

Julie Vaughn, Presiding Officer: I can. Yes. Can I get, um, your city and state?

Karen Cain: Kaiser, Oregon.

Julie Vaughn, Presiding Officer: Okay. Thank you. Go ahead. I will start the timer. Thank you, Karen.

Karen Cain: Thanks. Um, I am the mother of previously incarcerated sons, and I completely oppose the new proposed ODOC mail rules. I see these suggested changes as another way to dehumanize the incarcerated individual, which we all know is one of the worst things to do if society wants rehabilitation to take place for those who are incarcerated. I see this mail rule as punishing the many for the actions of the few. As long as there are drugs in the world, there will be people who want to take them, and as long as there are people who want to take them, there will be people who want to supply them. If the goal is to stop drugs from getting into the prisons, then the most likely way to be successful in doing that is to

(30:01) have drug detection dogs in every prison. These dogs would be present, doing their job— their job to detect drugs on every single person who walks into the prison, be it a visitor, a vendor, or a staff. These dogs would be available to detect drugs on every single piece of mail

and anything else that comes into the prison, regardless of who that mail or item is for or from. Drug detection dogs are the one most likely successful way to stop the drugs from coming into the prisons. We know there is a shortage of staff in Oregon prisons. There may be a fear that there may be staff who introduce drugs and that those staff would have to be terminated, thus further reducing the number of staff in Oregon prisons. We know the importance of connection for the prisoners and that there may be a fear that there may be visitors who mail in or bring in drugs, and that those visitors would have to be denied visiting and mailing rights if caught introducing drugs into the prisons, but if all staff, vendors, visitors, and prisoners are informed that moving forward, drug detection dogs will always be on duty, there should be a huge deterrent in the introduction of drugs into all of our prisons, thus resulting in far fewer drugs being brought into our prisons. If anyone continues to introduce drugs into our prisons and is caught by the drug detection dogs, then they will lose their right to work, enter, and visit any Oregon prison. I believe that drug detection dogs will greatly reduce the illegal introduction of drugs into our prisons and would do so in the most humane way possible. Thank you.

Julie Vaughn, Presiding Officer: Thank you for your comments, Karen. Is there anybody else present that would like to provide some testimony on these rules today before we adjourn? Okay. (32:01) Thank you to everyone who took the time to testify today. We appreciate your comments, and we will go ahead and adjourn this hearing at 1:37 p.m. Thank you everyone for your time today, and this meeting is adjourned. Thank you.