

Official Transcript

Virtual Public Hearing re: 103 CMR 405.00 – Inmate Funds

Date: January 5, 2024, at 10:00 AM

Atty. Heidi Handler: Good morning everyone. My name is Heidi Handler, and I am the Senior Regulations Council for the Massachusetts Department of Correction. I would like to welcome you all to the virtual public hearing for 103 CMR - Fund Accounts. For those of you who may not be aware, in Massachusetts, when an agency promulgates or changes in existing regulation, pursuant to the Administrative Procedures Act, the Agency is required to first submit the regulation with proposed changes to a public comment period. That is the purpose of today's hearing.

There are three individuals present from the Department that will be listening to your comments. They are all in the same room. Your comments are on the proposed amendments to 103 CMR 405 - Fund Accounts. This hearing is not being held for the purpose of receiving comments for any other Department policy or practice. The three individuals present will listen to all of your comments and report back to Commissioner of Correction, Carol Mici. No one from the Department will be answering any questions today.

With regard to the three individuals present from the Department, the first is Deputy Commissioner of Administration, Thomas Preston. Deputy Commissioner Preston assumed his position on February 17, 2019, after a thirty-year career in private sector banking. As Deputy Commissioner, he directs disbursements of the Department's fiscal budget of approximately \$765 million dollars and oversees Fiscal Services, the Department of Resource Management, Food Services, MassCor Industries, and the Systems Projects Division. Deputy Commissioner Preston is the reviewing authority for 103 CMR 405 - Fund Accounts. That means it is his responsibility to conduct annual reviews and monitor the application of the fund account's regulation, to assess its effectiveness, and to determine whether the regulation is meeting its purpose.

Also present, is Director of Support Services, Gary Temple. Director Temple has been employed by the Department for approximately twenty-five years and possesses an immense amount of institutional knowledge. He has been the Department's Director of Support Services since October of 2017. As Director of Support Services, Director Temple oversees the internal administrative services provided to incarcerated individuals, including, commissary services, electronic tablets, secure mail, and fund accounts. Before his promotion to Director, he held the position of Deputy Director of Support Services from December 2014 through October 2017. He also worked as an auditor in the Policy, Development

and Compliance Unit, also known as PDCU, and spent eight years working at MCI-Framingham. Director Temple reports directly to Deputy Commissioner Preston. Tara Alano, the Deputy Director of Support Services, is also seated with Director Temple.

The third representative of the Department is Timothy Gotovich, the Director of the Department's Policy, Development and Compliance Unit. Director Gotovich has held his current position since January 6<sup>th</sup>, of 2020. As director of PDCU, Director Gotovich is responsible for managing reviews of all Department policies and regulations. He is the reviewing authority for certain regulations other than 103 CMR 405 - Fund Accounts. Before becoming Director of PDCU, he held the position of Deputy Director from 2000 to 2012, and before that, he held other positions within the Department to include Director of Security, and Correctional Program Officer at various Department institutions. Director Gotovich also reports directly to Deputy Commissioner Preston.

To assist me in holding this public hearing for 103 CMR 405 - Fund Accounts, are Program Coordinator III, Michele Dupuis-Clarke and Paralegal Specialist, Tina Remlinger.

By way of background, with regard to the Fund Accounts regulation, in 2019 the Department implemented a Standard Operating Procedure to 103 CMR 405, then called Inmate Funds, to ensure that all incarcerated individual requests for disbursement of funds were not made for an illegitimate purpose. Several incarcerated individuals challenged this procedure, and in the case of Haas, and others, v. Commissioner of Correction, and others, the Appeals Court found that the procedure had not been implemented in accordance with the Administrative Procedures Act. The Appeals Court explicitly found, however, that the Commissioner of Correction had legitimate concerns about the potential for incarcerated individuals to transfer or use funds for unlawful purposes or to promote illegal activities. This interest was valid and neutral, but the Department had to proceed to public hearing, if it wished to implement a vetting process for disbursement of funds. That is why we are here today.

The regulation of 103 CMR 405 underwent minor updates in 2017 but it has not had extensive updates since 2002. Thus, when reviewing this regulation in connection with the disbursement of funds procedure, the Department also made changes to the receipt of funds procedure, definitions, and other necessary updates, so that the regulation reflects current Department practice.

I would like to move on to the process of how today's hearing will proceed. First of all, the Department began accepting written comments on December 6, 2023. To ensure that all who wish to do so may provide written comments, we

will continue to accept any written comments that you wish to submit up until 5 p.m. today, January 5<sup>th</sup>, 2024.

In addition, today we will accept oral comments from those of you who wish to offer them. The format of the hearing is as follows: All participants have their audio muted. The administrator, Ms. Dupuis-Clarke, will unmute individuals if it is their time to offer comment and they intend to do so. In addition to the audio being off for all attendees, the video is also off for all attendees, only individuals identified as panelists, that I have already identified, and the list of people wishing to provide comments will appear on screen throughout the hearing. Screen sharing, and other video will not be seen on the webinar, and you will not have the ability to mute or unmute your own audio or screen share.

If you do wish to speak as an attendee, Ms. Dupuis-Clarke will activate your video and audio when you are called to speak and this will allow everyone who is attending to see and hear you. This change will also allow you to screen share. Once you have finished speaking however, you will be returned to the webinar, and will no longer be visible or audible to others.

Please note, that the presentation or screen sharing of any inappropriate material will result in your video and screen sharing privileges being terminated. As you should be able to see, in the corner of your screen there is a list of speakers. That list will remain on the corner of the screen and individuals will be added to that list in the order of request to speak as they are received. All of you should be able to view this dynamic list and know who is in line to speak next. The individuals have been placed in order in connection with the following protocol: Those individuals that have been notified the Department that they wish to speak in advance of this hearing, will be called first, additions from the video webinar portion of this hearing, will be made next. If you are an attendee, and you wish to speak, please click on the raise hand feature on the bottom of your screen, if you are watching from a computer. If you are on a phone or other mobile device, click on the more button on the bottom corner. If you click on the raise hand feature, your name will automatically be added to the list, and you should be able to see it in the dynamic list. Once all individuals who have previously indicated a desire to speak and have used the raise hand feature to indicate a desire to speak, have spoken, we will have additions from audio call-ins. What will occur at that time is Ms. Dupuis-Clarke will unmute all audio callers at one time and ask if any of them wish to provide comment. Once she collects the names only of those individuals wishing to provide comment, she will mute everyone again, and then unmute each audio caller individually that has indicated they wish to speak.

The Department is requesting that you limit your comments to five to ten minutes, so that all who wish to be heard may have an opportunity to speak. If you encounter any technical issues accessing this webinar, or making it known that you wish to speak, please call (617) 727-3300 extension 1124 and we will try to assist you.

Lastly, as I mentioned, Deputy Commissioner Preston, and Directors Temple, and Gotovich are listening to your oral comments, and they will also read all written comments that have been submitted and bring all comments back to the Commissioner of Correction, Carol Mici; but no one present will be answering any questions today.

Before I turn the hearing over to Ms. Dupuis-Clarke to begin accepting comments, I would like to thank each of you on behalf of the Department of Correction for participating in the regulation process. The public comment period is integral to the establishment of an effective regulation. Following the hearing, the Department will take all the comments that we have caught gathered, as I already indicated, back to Commissioner Mici. After considering them, the Department may make further revisions to the regulation as appropriate. Then, the Department will publish the final version of the regulation in the Massachusetts Register, where it will be promulgated and become effective.

At this point, in our order to call the list and accept all of the public comments on proposed regulation 103 CMR 405 - Fund Accounts, I would like to turn the hearing over to Ms. Michele Dupuis-Clarke.

Michele Dupuis-Clarke: Thank you, Attorney Handler. Attorney Pettit, I'm going to promote you to panelist. You've been promoted to panelist and may begin offering your comments at this time.

Where did she go?

Okay, Representative Uytterhoeven. I'm going to promote you to panelists at this time and you may begin your comments.

Erika Uytterhoeven: Wonderful. Can you hear me alright?

Michele Dupuis-Clarke: Yes, thank you.

Rep. E. Uytterhoeven: Great. Well, good morning. Thank you for the opportunity for me to testify on the proposed changes to CMR 405. For the record, my name is Erika Uytterhoeven. I'm a State representative of the 27<sup>th</sup> Middlesex District. My testimony will touch on three issues. First, I am testifying in strong opposition to section 11, subsection 2 and 6, which creates a new, onerous, and needlessly

bureaucratic approval process for incarcerated individuals to disperse funds. Prior to this proposed policy change, the practice of requiring incarcerated individuals to get approval from facility administration and show documentation of how their money will be spent, was most recently started during the Covid pandemic. This was of utmost concern for women legislators- and I met with, at MCI Framingham as early as 2021, the majority of these women are mothers, and wished to send money to support their children and families, and to send gifts as a way to bond and remain connected to their children. As with most, almost all DOC approval processes, this practice was slow, frustrating, lacked a paper trail or clear accountability mechanism for it to be implemented fairly or in an appropriately timely manner. As such, this will be yet another policy that has turned- has shifted from practice to policy that burdens and punishes incarcerated individuals who are merely trying to do the right thing by staying connected to their family and community as a process to rehabilitate themselves. My question is, what is the rationale for adding this policy?

My understanding is that a very small number of individuals have dispersed money for illegitimate purposes. But then the other question is, why is the DOC implementing collective punishment on all incarcerated people based on individual conduct? The DOC has a robust disciplinary process to address individual conduct and hold accountable any bad behavior. This includes Disciplinary Reports, removal from the general population to segregated housing, and an annual to bi-annual Classification Review process. But implementing collective punishment for individual conduct is unfortunately a common- all too common practice in the DOC and runs afoul to the Constitution, Massachusetts General Laws, and the DOC's core stated mission of rehabilitation.

The second issue I'd like to raise is around the wages outlined in Section 7, Subsection 11, which I find to be deplorable and dehumanizing. These wages reflect the historical and political context that prisons and mass incarceration at large are the continuing legacy of slavery in America. I believe we can do far better than paying incarcerated people \$1.35 to \$2.70 cents per day. This is the equivalent to an annual salary of \$350 to \$700 a year, assuming 260 workdays per year. This is, also I will say, also an optimistic assumption given that so often incarcerated individuals are put in modified lockdown that prevent them from working every possible workday of the year. To be clear, this amount of 350 to \$700 annual salary, is a mere 2% of the Massachusetts minimum wage of \$15 an hour, which is the equivalent of \$31,200 a year. I urge the Department of Correction, and EOPSS to reconsider and significantly raise these wages.

Third, I want to raise the concern on bringing in an outside vendor to process simple transactions, such as cashing checks as outlined in Section 10. What is

notable about these changes is the absence of clarity on the magnitude of fees that an outside vendor could incur. In addition, there is no clarity and a fee structure set by the Commissioner for the maintenance and administration of fund accounts. These changes, I believe, are part of a larger context of the Department's policies and practices that not only deviate from the Department's core mission of rehabilitation but are continuing steps in the wrong direction that run afoul to the Constitution, Massachusetts General Laws; including, all the way back from 1972 Correction Reform Act, passed nearly half a century ago, all the way to the No Cost Calls legislation, which was just implemented a little over a month ago.

The abysmally low wages, coupled with potentially exploitative fees that lack any guardrails, continues to make being incarcerated expensive and certainly does not set people up for success upon reentry. In the most recent legislation on no cost calls, the Legislature intentionally included provisions to prevent burdensome fees from the from Commissary, and I urge the Department to continue in the spirit of this recent legislation and include these policy changes as well as higher wages and guardrails and transparency to these administrative fees.

With respect to the first change, to put in place a new and onerous approval process for individuals to disperse funds is harmful to rehabilitation and a fair and just accountability system implemented by the Department.

As I stated earlier, there should not be collective punishment for individual conduct. This is a common practice that I have witnessed in the Department and this policy change would codify this problematic practice. I believe that this policy runs afoul to Equal Protection, and oftentimes results in litigation against the DOC as a violation of Due Process. It also runs afoul to the spirit, intention, and language of the Massachusetts General Law, including the responsibility of the DOC Commissioner to ensure rehabilitation and assist, quote, each and every- each such person to assume the responsibilities and exercise the rights of a citizen of the Commonwealth. That- in order to respect this law, this would require a fair and consistent disciplinary and accountability process for individual conduct. However, what this policy does, and what I've witnessed repeatedly, is that the Department responds to individual conduct through collective population-wide punishment or consequences. To share just a few recent examples that are in line with these kind of policy changes, currently, at MCI-Framingham the women only have three hours per week of access to the Law Library, and that is because they, because of an individual conduct incident that there were two women from two separate units that were doing something allegedly inappropriate, the entire institution changed so that the number of that people have access to the Law Library is reduced because they will not

allow people from separate units to access the Law library. Another example that has come up over and over in the Fall is that the educational tablet is turned off because people- individuals, are sending messages across the tablets. While this should be disciplined, this should not result in a population-wide change of taking away educational tablets or shutting off the ebooks.

Finally, we see this repeatedly with recreation being shut down because there was some individual conduct again, that is, a general population punishment. And finally, I think another recent policy that came into place, or was at least proposed in the Fall was to ensure that legal mail had bar codes, the copying of regular mail. Again, these are all things that are causing burden to the general population, based on individual conduct that really should be handled at an individual level rather than changing of policy.

Because a small number of individuals have dispersed money for illegitimate purposes. For this example, we should not be changing-

Atty. Heidi Handler: Representative? I don't want to- I do want to let you complete your comments.

Erika Uytterhoeven: Sure. Am I already at ten minutes? Or-

Atty. Heidi Handler: I just wanted to make sure that everybody that wishes to speak has an opportunity to do so, so I just wanted to ask you if you could summarize the remainder of your comments...

Erika Uytterhoeven: Sure.

Atty. Heidi Handler: ...regarding the 405 regulation, which is the subject of the public hearing today. But again, we are here to listen to everything you have to say, and I just wanted to ask you to summarize the remainder of your comments. Thank you so much.

Rep. E. Uytterhoeven: I didn't realize I was so close to the ten-minute mark, so I will- I'm happy to summarize or and stick to the CMR 405 at the at hand. So you know, with respect to whether these changes- you know, policy changes support, rehabilitation, or center on the humanity, dignity, and wellbeing of incarcerated individuals and their families, I believe this policy change is a clear step in the wrong direction. The only positive change that I've from reviewing the entirety of the CMR, is replacing the term inmate with incarcerated individual and civil commitment. While language is extremely important, and I support this specific change, it pales in comparison to how this policy will negatively impact the material conditions of incarcerated people and will invariably add to the immense list of concerns legislators hear from incarcerated individuals, and that we will continue to raise to the administration, with truthfully, in terms of the

best outcome that I've witnessed, is a material improvement that may take weeks, and sometimes months, to take in effect, if any change is made at all.

In summary, I respect the Department to make revisions that will address these three concerns by making the following changes: First, I ask that the section around the additional processes for the disbursement of funds be changed and be removed. I do not think that there needs to be an onerous process involving the facility level administration to approve the disbursement of funds; second, I urge the Department to raise the wages as outlined in the CMR For the work that incarcerated people do for the service of the Department, and three, I ask that there be guardrails put in place, and clarity and transparency around the potential administrative fees, whether they be levied by the Commissioner and the Department itself, or by an outside vendor.

Thank you so much for your consideration and time at this public hearing. I and other legislators of the Criminal Justice, Reform Caucus, and the Black Latino Caucus would be happy to meet and have further discussions moving forward on this matter. Thank you so much.

Michele Dupuis-Clarke: Thank you Representative Uyterhoeven. Okay, so we will move on to Ms. Reno. Anika Reno, you've been promoted to panelists and are free to offer your comments at this time. Can you hear me, Ms. Reno? Please unmute.

Anika Reno: Yes, I can.

Michele Dupuis-Clarke: Okay, very good. We can hear you as well. Please feel free to offer your comments at this time.

Anika Reno: Thank you for the opportunity to comment. Today. My name is Anika Reno, and I am here to share comments on behalf of Harvard Prison Legal Assistance Project. We represent incarcerated people in disciplinary classification and parole hearings, commutation petitions as well as other matters. Through this representation, we learn of the numerous obstacles our clients on a daily basis in prison. We are also familiar with how alleged violations of facility rules are investigated, including the investigation of financial transactions.

Our first comment concerns Section 11, Disbursement of Funds and specifically Subsection 6, the proposed verification process for disbursement. As a preliminary matter, it bears noting that many of our clients remain financially responsible for their loved ones on the outside, or otherwise wish to contribute to the wellbeing of their loved ones. To this end, they depend on the ability to send money to their partners, their parents, siblings, and others. Apart from helping their loved ones make ends meet, our clients rely on the ability to send money to celebrate birthdays and other major milestones in their families lives.



The importance of maintaining connections outside the prison is self-evident and has been shown to be critical to reentry. The proposed procedure for disbursement of prisoner funds will make it unjustifiably difficult for our clients to send money include money, including money they have earned, to their friends and family outside of prison.

We understand the Department's interest in protecting against the disbursement of funds for illegitimate purposes; however, requiring prisoners to meet a new, an additional verification process to access their own money is redundant, it will interpose delay, and it poses the potential for inconsistent, inequitable restraints on spending. The proposed regulation is redundant, because today, even without the subsection proposed, the Department regularly investigates prisoners for alleged wrongdoing that involves the sending and receiving of money. An additional verification process would provide no added value to the Department's existing investigative processes.

It would, however, interpose needless delay on the many people in prison who are doing nothing wrong by asking that their money be dispersed to a person outside the prison. All this regulation would do is delay that ability to send funds out in a timely manner. Under this proposed regulation every prisoner who wants to send a \$20 check to wish his daughter a happy birthday, will have to first seek superintendent approval, and if the disbursement is denied, then a Department review. Such a process is not only unduly burdensome on the prisoner and his daughter, but an unjustified waste of public tax dollars.

Moreover, the proposed regulation is essentially standardless, offering that disbursements shall not be permitted for any illegitimate purpose, but not defining that phrase. This section leaves an inordinate amount of discretion in the hands of the administrator reviewing the request. It is possible, indeed likely, that this section will be applied inconsistently across facilities, an outcome that benefits no one.

In addition, there is little to no guidance on how the reviewing authority will determine that a purpose is illegitimate, raising the potential for disbursements to be denied based on speculation or rumor than reality. Our office is familiar with the reality that while some allegations against incarcerated people are grounded in objective facts, many others are not. In particular, there is too often a willingness to rely on informant or tipster information that is unsupported by actual evidence. There is clear potential under this regulation for certain people to be targeted and denied their disbursement requests without a legitimate basis. For these reasons, we urge the Department to remove this amendment, Section 11, Subsection 6 and instead maintain the

default rule that prisoner's disbursement requests will be honored, subject, as it has always been, to investigations of wrongdoing.

Second, we ask the Department to use this opportunity to clarify how prisoners earned funds are tracked. The regulation specifies that prisoner's funds accounts include all funds belonging to a given prisoner, and may include separate categories of types of funds; earned funds, personal funds, and savings funds. Section 5, of the proposed regulation further states that the Department may implement a method for tracking the amount of each type of funds held in each fund account.

As you know, there are several instances in which, pursuant to statute earned funds are treated differently than other funds. Our understanding, based on the account statements we have reviewed from our clients, is that people in DOC custody can readily obtain a statement of how much money is in their personal funds and in their savings funds, but not how many of these funds represent earned versus unearned funds, and whether earned funds have already been spent or not. To this, and we believe the Department should go one step further than what is suggested in Section 5 and describe in this regulation how earned funds are tracked, and when they are considered to have been spent or dispersed. A clear written method for tracking earned funds that clarifies how these funds are tracked would benefit all concerned, allowing greater transparency in providing prisoners with visibility into their own personal finances.

Third, and lastly, we would be remiss if we did not acknowledge the shortcomings of the DOC wage scale in Section 7, Subsection 11. While the wages offered to prisoners with jobs are increased in these proposed amendment regulations, they fall terribly short of a reasonable wage for incarcerated people. We recognize that responsibility for this problem is shared. That said, we urge the Department, the Executive Office of Public Safety and Security, the Governor, and the Legislature to revisit and make meaningful improvements to the ways in which incarcerated people are paid for their labor.

Thank you for your consideration of these comments.

Michele Dupuis-Clarke: Thank you for your comments, Ms. Reno. You will be returned to attendee status now. Attorney Pettit, please unmute your audio. Can you hear me?

Lauren Petit: Can you hear me?

Michele Dupuis-Clarke: Yes, I can.

Lauren Petit: Great.

Michele Dupuis-Clarke: You are free to begin your comments now.

Lauren Petit: Thank you. We'd like to thank you for the opportunity to testify on behalf of Prisoners' Legal Services about the proposed changes to the funds accounts regulation. PLS will submit written testimony that goes into greater detail than what I will say here.

As a general matter, the proposed regulations read as more complicated than it seems like is needed to lay out what we read to be the proposed structure and we encourage the Department in their draft of final regulations to offer more clarity, rather than mystifying the process.

PLS was very pleased to see raises in the wage scales which are long overdue, but as has been mentioned in earlier testimony, we urge the Department to do more and agree that this is something that goes beyond the Department in order to make it happen, but the Department does need to be pushing for this. The wages for what's called unskilled work inside of prison is the majority of the work and earned funds opportunity available to incarcerated people, partly because the DOC doesn't move people to lower security and work release where they can get a community wage prior to release. These proposed increases which are \$1.35 to \$2.70 work out to an increase of, at most, less than \$10 a week if you're working a seven-day week.

As Rep. Uytterhoeven referenced the- you know it's impossible to ignore the context that the prison system in this country comes directly from the roots of slavery in this country and has been continually used by our society to continue the legacy of racism that disadvantages people of color, in particular, black people and we urge the Department to be mindful of that as working through both the wage scale and the other funds provisions proposed in these regulations. The tiny sums that are proposed, though they are an increase, are still insufficient to achieve the Department's stated purpose for the wage scales which is described at 405.07 Subsection 1, and says, the primary purpose for the institutional savings funds is to ensure that incarcerated and civilly committed, people shall be released with enough funds to aid in acquiring a residence, and to be able to afford the expenses related to reintegrating in a community upon the discharge- upon discharge or parole. A laudable goal, but not achievable with the wages that are proposed.

So PLS strongly urges the Department to meaningfully improve the wage scales and to build in a regular cost of living increase every two years to keep up with inflation both in the canteen and in the community. I'd also like to note, just as a general matter, that PLS also supports the revision of language within the

regulations, replacing the word inmate with incarcerated and civilly committed people.

As to the unearned and earned money accounting, PLS reads these regulations to suggest that there will be a clear accounting of what's earned and what's unearned. We support that and we think that it's, in fact, necessary to ensure that the Department is complying with the law in terms of how the Department takes monies for various fees from funds accounts.

Though it's not explicitly stated, we read these proposed regulations to allow a person to spend their unearned personal funds without any need to prove a compelling need, and to the extent that this is accurate, PLS supports this. At the same time, we also urge the Department to lay out what the guidelines are for establishing a compelling need as the regulations require for the expenditure of earned funds, and we urge the Department to ensure that those guidelines honor the autonomy of incarcerated and committed people, as well as their Due Process and First Amendment rights.

We do recognize the need for the Department to screen funds transactions for what's called illegitimate purposes. We would encourage the Department to define what is considered illegitimate and we assume that this is something that's contrary to law or to Department- Departmental rules, but we think that it's important to have that defined within the regulation itself. And also, we encourage the Department to go back to the system that had been used, which is to investigate those expenditures that have triggered some sort of suspicion, rather than the proposed system, which unnecessarily imposes a heavy burden of documentation on every purchase and may lead to abuses. Along the lines of what other testimony has said this morning, it's a system of communal punishment where instead individual investigation has been sufficient. We also encourage the Department to rather than focusing on the end result of drug addiction, which is probably a significant part of the illegitimate financial transactions that the Department sees, we encourage the Department to focus on the beginning of that and to significantly improve the availability of substance use disorder treatment within facilities.

Finally, the proposed regulations in a number of places appear to authorize takings by the Department, both to the General Fund and to the Department itself, that are not authorized by statute and are contrary to incarcerated people and committed people's Due Process rights to the money in their accounts. Our comments, our written comments go into greater detail about where we see those concerns arising, and we ask that you rectify those issues.

So as a whole, we support the increase in wages, but we ask the Department to go much further. We ask the Department to lay out the definition of compelling need and what the guidelines are that will govern the use of that system, as well as the system for determining what is a legitimate or an illegitimate funds transaction, and when drafting the final regulations to be mindful of the legacy of slavery and the prison system's part in continuing that discrimination. Thank you very much.

Michele Dupuis-Clarke: Thank you for your comments, Attorney Pettit, you'll be returned to attendee status now. Mac Hudson, you will be promoted to panelists and may begin your comments at this time. Can you hear me? Mack Hudson, you've been promoted to panelist may begin your comments at this time. Please unmute your audio. Can you hear me?

Mac Hudson: [Inaudible]

Michele Dupuis-Clarke: Yes, I can hear you.

Mac Hudson: Can you hear me?

Michele Dupuis-Clarke: Yes, you may begin your comments at this time.

Mac Hudson: Okay. So first, I'd like to thank everyone for this opportunity to be able to speak on behalf of myself and those who are presently incarcerated. My name is Mac Hudson, I served thirty-three years in the Department of Correction, and I consider myself a student of policy and practices in the Department, and I offer that today at this hearing in regards to some of the objections I'd like to raise, which is first and foremost the impact of these disbursements. And I like to remind the Department of Corrections and the officials who are, you know, listening to this is that I really believe that we have an opportunity to kind of realign ourselves back to what the intended statues were meant to be when the passage of the 1972 Omnibus Bill Act, really about rehabilitation, and what does that mean in regards to this effort that's being taken today? Because when you think in terms of that you think in terms of, you know, family reunification, community strengthening community ties, and much by way, what this has the ability to do, is really rob of that family unit and that family responsibility by limiting folks like myself and others who have children, right? Who wanna be able to be able to send out gifts wanna be able to do that and exercise a level of autonomy in which we are entitled to if we're not being disciplined. And I think that's also consistent with the other parts of the statues, which is, you know, General Law 127, Section 32, that we won't be disciplined, right? Just because of the acts of somebody else, we- but we're supposed to be treated with a level of kindness, and that level of kindness means the level of equality that's afforded to people who are not doing anything wrong, right? So if we are acting

responsibly with our funds, then we should not be scrutinized in the way that others are not- but that are not acting right. I mean, I think that's fundamentally fair and I think that we need to be looking at this from the from that perspective of fundamentally fairness, and therefore, I'd like to raise that to say that this would do really go against that fundamental fairness. In addition, it would also go against what we say, as a society in the Department of Corrections, to solidify and to make sure that family units stayed together as one of many components, right?

The other thing I wanted to raise is that that there seems to be no real security relationship to this policy, because there has, you know, Department has already exercised and has the ability to spot those instances where money is being sent out for in what I would classify as improper, right? Improper or illegal gangs, right? And they have it internal perimeter security which is on the clock every day. They have phone monitoring. They have all these other insulations that help them identify these types of illegal conduct, including some of which may be relying on informant information, which is corroborated by these other means, right? So they have these things and then, to create a whole separate system of review, which would then become staff intensive, something that the Department of Corrections have always complained about in regards to you know, how they manage the prison and how they manage resources in the prison, this would be another staff intensive incidence, and where someone's gonna drop the ball because they don't have the ability to do this and many other things which is required by the jobs prescription of the Deputy Commissioner, the Deputy Superintendent, and then on down to, you know, the internal perimeters, I mean, so this is redundant in all those ways where you already have a system in place, and you already have a penological system in place which is mandated by the CMR 403 disciplinary process for those who are acting inappropriately, right?

And so, for me, it doesn't make a lot of sense, and it really works against the meaning of the statute, the meaning of what it means to be treated fairly, and the and it really destabilized the ability to kind of just be able to connect with your family in a way that you need to, you know, and not fit- and really and to not become overly dependent, and that's and I think that this is something that's not talked about a lot in the Department of Corrections, if you're stepping down from one level to another level, the whole idea is so that you can, you gain a sense of autonomy, and that's the way the Department promotes it. When you're in higher security it's because you have to be watched directly. When you're in lower security, medium and lower, it's because you demonstrated that you can follow the rules, and then you have to be watched indirectly, right? Which then allows a sense of autonomy. When you get to

minimum, you remove the walls, and that gives you another greater sense of autonomy, but it also conditions you to be released back in the society. Well, this policy would actually work against that, right? Because it forces you now to always be dependent on someone else. I gotta be dependent on whether or not my CPO can pass this on to the IPS. The IPS then clear it and go to the to the Deputy Superintendent, or the DOT. Then the DOT Passes it along down to the Deputy Superintendent, then this Deputy Superintendent, if denied or asked this, then I appeal this process all the way through. So when people talking about the unnecessary delay, this is how this delay actually plays itself out and I think that we should be concerned about that, right? And what type of message are we sending as a result of that?

I think the other thing, too, is something I want to comment on, is that no one can survive offered \$10 a week. You know, I know this, I've been there, and I don't know like what you can buy, even in today's world, with \$10, and I think that we should kind of like use our common sense like when we think about raising the wages, and I'm- and I think it's a step in the right direction, so I commend the Department of Corrections, for at least you know, thinking in terms of that, but when we think in terms of like housing, and I can tell you from my own, my personal experience, having been released with nothing, and never having the ability to get down to a pre-release, even though I qualified for it, you know that to get out with nothing, or next to nothing, which would be the equivalent of saving half of the \$10 which is the way the policy works - If I earn \$10, then half of that will go into my savings, \$5 will go into my personal. I can't buy nothing with \$5 in canteen, you know, not even the basics. And then then \$5 for the next fifteen something or years, if I'm doing a second, or \$5 for the next three to five years, if I'm doing short term bid, the equivalent of what that will come into is not going to be conducive to allow me to save, to be anything. I mean, I'd be lucky if that comes up to about \$5,000.

Atty. Heidi Handler: Mr. Hudson, the Department truly appreciates your comments, and I'm going to let you continue, I just want to let you know you're coming up on 10 minutes here,...

Mac Hudon: Yes.

Atty. Heidi Handler: ... so that you have an opportunity to think about what's most important to you to summarize. We are going to continue to listen to you, and appreciate your input, but I just wanted to let you know you're coming up on ten minutes. Thank you so much.

Mac Hudson: Thank you. Yeah, I appreciate that. Well, what I wanted to do was give the real live experience of the incarcerated folks, and I think that you know, that these

types of discussions need to happen with the- with the incarcerated community, so that it gives greater clarity for those folks, what it means to them, how they're impacted, right? And not just, you know, how society at large is impacted, in thinking in terms of whether we're sending the right message or doing the right thing. But really, what it does it really mean on the ground? And how do we see these security mechanisms working that's already in place to do the job, and then therefore become redundant, and then it sends another type of message, which is that you that the Department is working against the very reform, the very unity of family and community in which it projects, and says that they that they're striving for. And so, you know, this is how it comes across to a lot of incarcerated folks who are not doing anything, who are saying that I should be treated with a level of fairness, and if I'm not breaking the rules and anything, then you should, you know, respect, respect that fact, honor that fact, and then allow me to further my rehabilitation without being impacted by those who are not taking rehabilitation serious. And with that, I just wanna, I'll bring my comments to a close. Thank you for having me.

Michele Dupuis-Clarke: Thank you for your comments, Mr. Hudson. You'll be returned to attendee status at this time. At this time, I'd like to invite anyone who is an attendee who has not had the opportunity to speak, to raise your hand and indicate a desire to do so. Seeing no hands raised at this time, I'll turn the- Let's see also, if you have called in as an audio listener and would like to offer comments, you can do so at this time. If you unmute your audio, audio caller, I'm happy to invite you to offer any comments that you may have at this time. Okay, seeing no desire to do that. Okay, seeing no additional hands raised, I'm going to turn the webinar over to Attorney Handler for her final comments at this time.

Atty. Heidi Handler: Hello, we did not see any additional hands raised from the webinar participants, And there was one audio caller that was provided with an opportunity to make comments, did not express an interest in doing so. I am going to leave this hearing open for about another- until 11 o'clock. That's about four to five minutes from now. You are free to leave if you have no desire to remain. But we are going to leave the hearing open until 11, in case any individual changes their mind who is present, or in case somebody wishes to call in. So I wanted to just advise you as to the procedure, again, we do not have any individuals that have notified us that they still desire to speak, but we are going to remain open for another few minutes to allow the most opportunity that we can to anyone that wishes to present comment.

And I did want to acknowledge that Ms. Pettit, from PLS, we, the Department, did receive your written submission of comments already, in addition to the oral comments that you provided today.



Okay, we have not received any additional raised hands, or any additional calls, or notations from anyone that they wish to speak. We are going to be concluding the public hearing. I did want to once again, on behalf of the Department of Correction, thank each and every one of you for participating. Your input and your comments are integral to the establishment of an effective regulation, so it is truly appreciated in order to ensure that anyone who wishes to comment has the opportunity to do so. The Department will continue to accept written submissions of comments up until 5 p.m. Today, January 5th, 2024.

And again we will be making any necessary, further revisions based upon again, that will, all of which will be taken back to the Commissioner of Correction and the final regulation will be promulgated in the Massachusetts Register. So if there are any questions, again, at this time, I will just leave the webinar open until exactly 11 o'clock, and at 11 o'clock a.m. Eastern Standard time, we will conclude this webinar. Okay, I, my clocks are showing 11 a.m. Eastern Standard Time, so the public hearing for 103 CMR - Fund Accounts has now concluded, and the Department thanks you for your participation.

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