
Video Visiting Restrictions Report

February 2022

Summary

The Office of the Ombuds for Corrections (OBFC) received a complaint from MCF-Oak Park Heights in September 2021, regarding video visiting not being permitted for incarcerated persons who fall under video visiting restrictions during times when in-person visiting is closed and the only option is by video.

The OBFC found that while prohibiting *unsupervised* video visiting is understandable for some individuals, when video visiting is the only option for any visiting, prohibiting video visiting has an unfair impact that unnecessarily limits an activity that supports restoration and a safer correctional setting.

Based on these findings, in October 2021 the Ombuds made the policy recommendation to allow supervised video visits:

If incarcerated persons are eligible for in-person visiting, they should be allowed to participate in supervised video visits with persons on their approved visiting list during times of visiting closure.

To accommodate any needed staff supervision, these visits could be scheduled for specific days and times and locations where the visiting can occur, just like would be done for normal in-person visiting.

The DOC agreed that change is needed and responded that they would review the policy to attempt to make accommodations for that facility. However, the OBFC had specifically recommended an agency-wide policy response, so requested an additional response from the DOC which was received on February 7, 2022.

The DOC agreed to review the policies and expects to implement changes by August 2022.

Description of Complaint

The Office of the Ombuds for Corrections (OBFC) received a complaint in September 2021 from MCF Oak Park Heights regarding video visiting not being permitted, during times of in-person visiting closure when the only option is by video, for incarcerated persons who fall under the restrictions of DOC Division Directive 302.022 Offender/Resident Kiosk Services:

D. Video visitation

1. Offender eligibility – all offenders are eligible for video visiting unless:
 - a) They have one or more of the following visiting restrictions:
 - (1) Close supervision with minors,
 - (2) Non-contact with minors,
 - (3) Non-contact with minors with exceptions,
 - (4) No visiting with minors, or
 - (5) No visiting with a specific individual (e.g., victim).

This Division Directive excludes from video visiting those incarcerated persons who may have been permitted in-person visiting under normal circumstances.

In September 2020, the Office of the Ombuds for Corrections received similar complaints from MCF Faribault. After some discussion with facility administration, the facility made accommodations for video visits for people who were restricted under this policy. The Ombuds hoped that this experience would lead to similar accommodations throughout the agency, but that was not the case, so is making a formal recommendation for policy change.

OBFC Findings

Prohibiting supervised video visiting has an unfair impact: While prohibiting *unsupervised* video visiting is understandable for some individuals, when video visiting is the only option for any visiting, prohibiting video visiting has an unfair impact that unnecessarily limits an activity that supports restoration and a safer correctional setting.

Presumably staff are available to supervise in-person visiting, so therefore could supervise video visits for these individuals during times of closure.

OBFC Recommendation

Allow supervised video visiting when in-person visiting is closed: If incarcerated persons are eligible for in-person visiting, they should be allowed to participate in supervised video visits with persons on their approved visiting list during times of visiting closure.

To accommodate any needed staff supervision, these visits could be scheduled for specific days and times and locations where the visiting can occur, just like would be done for normal in-person visiting.

Visiting Updates

When this complaint was received, and a recommendation was made in October 2021, most, if not all the facilities had resumed some version of regular visiting, but there had been occasions where visiting had been shut down due to positive COVID-19 cases, and it was predicted there would likely be times that visiting would continue to be closed in the future for COVID-19 or other, unforeseen reasons.

From when the recommendation was made to when the final DOC response was received, in-person visiting at all facilities closed due to COVID-19 cases. During this time, there has been challenges with staffing which has been difficult for staff and administration, and incarcerated people have experienced significant challenges and hardship as there has not been in-person visits since before the holidays or for the last several months.

The OBFC has continued to monitor the situation during this time.

DOC Responses

The following letters received on December 10, 2021, and February 7, 2022, are the Department of Corrections responses provided in accordance with Minnesota Statutes section 341.93 subd. 6.



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December 10, 2021

Mr. Mark Haase, Ombuds
Office of the Ombuds for Corrections
540 Fairview Ave. No., Ste. 202
St. Paul, MN 55104

Re: MCF-Oak Park Heights video visiting complaint

Dear Mr. Haase:

I have reviewed your letter and the corresponding recommendation regarding complainant's inability to participate in video visiting with current visiting restrictions.

After review of the following recommendations by your office we concur that change is supported as you will see further reasons detailed below.

Specific to MCF-OPH, we are currently reviewing the below process to coordinate supervised video visits during times when the visiting room is closed due to Covid. The process would be similar/the same as our current process/schedule for visits.

1. Thursdays and Fridays would be the designated days for the supervised video visits. A rotating schedule would be developed where incarcerated persons from each general population unit would be allowed to sign up for a 15-minute supervised video visit once a month.
2. The supervised video visit would take place in the due process conference room on Level 3. The visit would take place via the DX80 video conference equipment.
3. Two security staff would be needed. One security staff would manage the movement in and out of the due process area. The other staff would observe the visit.
4. If visiting was abruptly closed due to COVID, a notice would be announced to the public and population.
5. The friend/family who wishes to visit would contact the visiting staff on Wednesday to schedule a visit for Thursday/Friday.

Conclusion

Thank you for the opportunity to address the concerns you raise. I recognize the value of outside review of incidents concerning to those we serve. I readily acknowledge that visiting is critical to our incarcerated population. With that said, there are a number of recommendations that I think will help ensure more availability in the future, however, concerns with this plan are staffing issues.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Sherlinda Wheeler
Sherlinda Wheeler, Acting Warden

MCF-Oak Park Heights

CC: Michelle Smith, Deputy Commissioner
Paul Schnell, Commissioner



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February 3, 2022

Ms. Margaret Zadra
Office of the Ombuds for Corrections
540 Fairview Avenue North, Suite 202
St. Paul, MN 55104

Dear Ms. Zadra:

Recently, the Department of Corrections (DOC) submitted a response to your office regarding a complaint and recommendation of an incarcerated man related to video visiting at MCF-Oak Park Heights (OPH). The previously submitted response was specific to OPH and their plan to expand some of the video visiting options. As is the case with facility-based programs and operations, the OPH plan is reliant on security staffing levels. As OPH was working to put their plan in motion, your office requested that the video visiting policy be modified systemwide.

We concur that the policy pertaining to video visiting requires updating, and we are committed to moving in that direction. The OPH complaint and recommendation prompted a specific review and response from that facility. Systemwide policy changes are submitted and routed through a review process to ensure all the stakeholders have an opportunity to weigh in on the impact of changes. The best course of action would be for the change to be worked through that process and not finalized in a response to an OPH complaint.

The DOC has been exploring ways to address concerns/requests from the incarcerated and their families to accommodate some video visiting options for those with in-person visiting restrictions.

Part and parcel to the policy change discussion is the implementation of GTL tablets and the new functions that will come with them. The tablets will give us a number of additional options for visiting and phone calls. Making changes based on our current tablet system, which are owned by members of the population who can afford them, will not serve the needs of the incarcerated and their families. The new tablets must be part of the video visiting policy going forward. As you know, implementation of the GTL tablets has been challenged by the vendor's inability to meet ADA compliance requirements. I will activate the visiting policy committee to begin stakeholder engagement and policy considerations. I will direct that the committee provide you with progress updates at 3-months and 6-months. It is my expectation the policy committee be ready to submit the updated policy proposal to me and the executive team by or before August 15, 2022.

Please let me know if you require additional information or clarification.

Sincerely,

A handwritten signature in black ink that reads "Michelle Smith". The signature is written in a cursive style with a small flourish at the end of the name.

Michelle Smith
Deputy Commissioner

C: Commissioner Paul Schnell