
OBFC Disability Modifications Investigation Report and Recommendations

July 2022

REPORT SUMMARY

In May 2022, complainant served a 10-day accountability sentence in segregation without being in an ADA cell and without approved ADA equipment needed for daily living.

The Office of the Ombuds for Corrections (OBFC) found the actions of the Department of Corrections (DOC), in this incident to be likely unfair and inconsistent with DOC policies.

The Ombudsperson made the following recommendations to better ensure disability modifications in segregation in the future, which were agreed to by the DOC:

- **Disability Modifications Training:** All DOC staff members should receive additional/refresher training on DOC Policy 203.250 Modifications for Offenders/Residents with Disabilities so that any future incidents involving incarcerated individuals are identified and tracked properly and that clearance is sought for movement/placement to a non-ADA cell without the incarcerated person's approved ADA equipment.
- **Communication with Complainant:** Complainant should be informed of the steps for accommodation for future segregation or discipline to address his basic living needs, and he should be educated about options for communication to address staff if he does not have his medical items available to him which allow him to communicate by kite.

Summary Description of Incident

In May 2022, complainant served a 10-day accountability sentence in segregation without being in an ADA cell and without approved ADA equipment needed for daily living.

Incident

Complainant's cell was searched and evidence of contraband, along with materials needed to produce contraband, were found in complainant's cell. Complainant was then escorted to segregation and placed on Pre-Hearing Detention Status.

Complainant signed an Adult Waiver of Hearing - Plea of Guilty and was penalized to a 10 -day accountability sentence to be served in segregation for violation of 386 Possession of Contraband, with the remaining charges being continued for 386 days.

Complaint

During the 10-day sentence in segregation, complainant alleged that he was not placed in an ADA cell with mechanisms to assist in his personal care needs, nor did the cell adequately accommodate a wheelchair. Further, the complainant alleged that he did not have his other approved ADA items with him which are needed for daily living, such as reading glasses and hearing aids to name a few. Complainant also alleged they were unable to properly communicate with staff, according to policy, without these daily living aids. Complainant alleged he requested his ADA items, but staff did not respond to his requests.

Complainant further noted that during this time in segregation, he had an opportunity to speak with a health services staff member about needing his ADA approved aids, to which they replied he could not have his items for security reasons.

Complainant requested OBFC assistance in resolving these issues for any future placement to segregation so that he is not denied his ADA needs and that an ADA compliant placement is found for him in the future.

Background

Prior to the incident in this case, the complainant had numerous confirmed medical issues and disabilities. Based on his needs, he had been advised in 2020 that he was approved for permanent placement into an ADA compliant cell at his facility. Since September of 2021, complainant has been on a medical placement status in his assigned living unit. Along with being placed into an ADA cell, accommodations had also been made for his work assignment. The complainant had been approved for numerous ADA items/equipment to assist with his daily living and personal care needs.

OBFC Investigative Actions

An OBFC investigator completed an extensive review of DOC documents relevant to the complainant as well as pertinent MN DOC policy and interviewed relevant staff and leadership as available.

Staff explained that it is not uncommon for incarcerated individuals who are in segregation to write a kite to the Segregation Lieutenant if they need items from their property pack-up brought to them in segregation. As long as the item does not present a segregation safety concern, the request is typically granted. Neither the Lieutenant overseeing segregation nor the Captain received any kites from the complainant. Complainant knows this process and should have been aware that he could have submitted a kite using the chain of command. However, complainant did note in his complaint that without his reading glasses, he was not able to correspond in writing and also stated that he repeatedly told staff he needed his ADA items; however, those staff are not named so could not be interviewed. Complainant does typically need reminders to follow the chain of command.

Staff communicated that they are aware of complainant's concerns about several other issues as well as some of the ways the complainant is typically accommodated for those in the living unit which have included separate flag (time out of cell). Because segregation staff were aware of this, they allowed complainant his own flag time during the day, and then allowed him to be in his cell during regular flag time.

The OBFC investigation revealed that the segregation unit does have two ADA compliant cells; however, both of those cells are located in the quiet status of section of segregation. The facility is currently facing significant staffing shortages and the most likely reason for his placement in a non-ADA compliant segregation cell was to keep all incarcerated individuals who were in segregation in one location so not as many staff were needed to operate and safely control the segregation unit.

OBFC Findings

The ongoing efforts that DOC staff have made regarding both required accommodations as well as additional thoughtful accommodations for the complainant's comfort are acknowledged and commended.

However, based on our review of the incident, the OBFC finds the DOC actions in this incident to be unfair and inconsistent with policy as follows:

- **Unfair Actions:** Not all of the complainant's accommodations would be available or feasible in segregation. However, those accommodations which are required to meet his basic needs such as his eyeglasses, hearing aid charger, and access to an ADA cell should still be available when he is in segregation unless there is some specific, documented reason that they cannot be accommodated.

There are significant, critical challenges associated with staffing levels, but if there are not sufficient staff to accommodate him in an ADA cell in segregation, then an alternative should be sought.

The OBFC finds that the actions of the DOC in this situation to be unfair.

- **Likely Policy Violation:** MN DOC Policy 203.250 Modifications for Offenders/Residents with Disabilities, Procedures, F. Termination, Transfer, and other Modification Actions, 5., states:

For offenders/residents with disabilities, facility staff responsible for housing assignments, disciplinary measures, program assignments and transfers to other facilities must consult with the designated facility ADA coordinator before implementation. When immediate action is required, consultation with the facility ADA committee to review the appropriateness of the action must occur in a reasonable amount of time.

There is no record of immediate consultation with the facility ADA coordinator to approve placing complainant in a non-ADA cell during his time in segregation, and without most of ADA approved equipment. Nor does there appear to be any consultation with the ADA committee to review this placement at a later date.

Under the same DOC Policy, section 6., states, “Facilities must ensure there are sufficient accessible beds available to accommodate offender/resident with disabilities.” In this case, there were adequate ADA cells in segregation; however, complainant was simply not assigned to one of them.

The OBFC finds the actions of the DOC in this situation to be inconsistent with MN DOC Policy 203.250.

OBFC Recommendations

The OBFC recommends the following to better ensure disability modifications in the future:

- **Disability Modifications Training:** All DOC staff members should receive additional/refresher training on DOC Policy 203.250 Modifications for Offenders/Residents with Disabilities so that any future incidents involving incarcerated individuals are identified and tracked properly and that clearance is sought for movement/placement to a non-ADA cell without the incarcerated person’s approved ADA equipment.
- **Communication with Complainant:** Complainant should be informed of the steps for accommodation for future segregation or discipline to address his basic living needs, and he should be educated about options for communication to address staff if he does not have his medical items available to him which allow him to communicate by kite.

DOC Response

The following letter is the Department of Corrections response provided in accordance with Minnesota Statutes section 341.93 subd. 6.



July 14, 2022

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

Re: ADA Compliant in Segregation Unit

Dear Ms. Zadra,

I have reviewed your report, findings, and the corresponding recommendation regarding incarcerated individual [REDACTED] complaint that during his 10-day accountability sentence served in segregation that he was not placed in an ADA cell and did not have access to some of his communication aids. [REDACTED] requested assistance in resolving these issues for any future placement to segregation so that he is not denied his ADA needs and that a proper discipline placement is found for him in the future.

After review of the following recommendations by your office we concur that change is supported as detailed below:

1. OBFC Recommendation -Disability Modifications Training: All DOC staff members should receive additional/refresher training on DOC Policy 203.250 Modifications for Offenders/Residents with Disabilities so that any future incidents involving incarcerated individuals are identified and tracked properly and that clearance is sought for movement/placement to a non-ADA cell without the incarcerated person's approved ADA equipment.

We agree with this recommendation. Moving forward, we will assure there is a plan in place to include staff being educated and trained appropriately with Incarcerated Residents with Disabilities. On or before January 1, 2023, we will be sure to update processes and trainings or let you know where we are in relation to working towards these things.

2. OBFC Recommendation - Communication with [REDACTED] [REDACTED] should be informed of the steps for accommodation for future segregation or discipline to address his basic living needs, and he should be educated about options for communication to address staff if he does not have his medical items available to him which allow him to communicate by kite.

We agree with this recommendation. On or before August 15, 2022, the Associate Warden of Administration and the Segregation Unit Lieutenant will meet with to Mr. [REDACTED] to advise him the proper procedure for addressing his concerns if he does not have access to his communication aids.

Thank you for allowing MCF-Stillwater the opportunity to address this matter. Your time and review are sincerely appreciated.

Please feel free to contact me directly with any questions or concerns.

Maria Williams - AWA on behalf of Warden Bosch

Warden Bosch
MCF-Stillwater

CC:

Paul Schnell, Commissioner
Michelle Smith, Deputy Commissioner
Safia Kahn, Assistant Commissioner