

OFFICE OF THE CORRECTIONS OMBUDS

Investigative Report

Angee Schrader, Assistant Ombuds

May 6, 2021

The Office of the Corrections Ombuds (OCO) is established in Chapter 43.06C RCW. Duties of the office include investigations into complaints regarding the health, safety, welfare, and rights of incarcerated individuals in the Washington Department of Corrections (DOC). This report is provided pursuant to RCW 43.06C.040, which requires a public report at the conclusion of an investigation.¹ This report has been edited to protect confidential information. OCO investigations and underlying records are confidential pursuant to RCW 43.06C.040 and 43.06C.060. Any persons wishing to report a complaint to OCO can do so via its online complaint form at oco.wa.gov or via its free, unmonitored hotline (360.664.4749).

Brief Summary of Complaint

On January 7, 2021, OCO officially opened an investigation regarding a Black-Puerto Rican² incarcerated male at the Monroe Correctional Complex (MCC). DOC staff placed him in administrative segregation (aka solitary confinement)³ pending an investigation into allegedly inciting a hunger strike. He was found guilty of a 746 hunger strike

¹ Note: All OCO investigations require a public report; however, only incidents involving critical or systemic issues receive an individual investigation report. All other investigations are publicly reported via OCO's monthly outcome summary report, available on its website.

² The individual self-identifies as Black and Puerto Rican.

³ In this report, OCO uses both terms "administrative segregation" and "solitary confinement" interchangeably. Administrative segregation is a technical term that refers to the specific status of an individual who is housed in the Intensive Management Unit (IMU). However, the reality of the placement for the individual is synonymous with what the greater public knows as "solitary confinement" – very limited out of cell time and very limited privileges.

infraction and had been housed in solitary confinement since November 3, 2020, even though his sanction of 20 days cell confinement was complete.

Executive Summary of Findings and Recommendations

- OCO finds that multiple individuals, including the Complainant, were held for an extended period of time in Administrative Segregation at MCC.
- OCO finds that extended time in solitary confinement has significant, negative impacts on incarcerated individuals, impacting their release dates, communication with their families, and health, among other items.
- OCO finds that given the negative impact on the individual, the security risk presented by the persons reviewed by OCO did not justify the extended time in administrative segregation.
- DOC should create a hard deadline that persons must be released from solitary confinement within 30 days, whether through release to general population, transfer, or transition to a housing pod within IMU that allows for improved conditions.
- Investigations that result in a person's extended placement in IMU need to be evaluated for efficiency and whether the security threat justifies the length of stay in administrative segregation. To speed up investigations, DOC may need to deploy additional staff resources and/or provide greater oversight and approval by DOC HQ as to what constitutes a "significant threat" such that an extended investigation is required.

Statutory Authority

- Per RCW 43.06C.005, OCO was created to assist in strengthening procedures and practices that lessen the possibility of actions occurring within DOC that may adversely impact the health, safety, welfare, and rehabilitation of incarcerated individuals, and that will effectively reduce the exposure of DOC to litigation.
- Per RCW 43.06C.040, OCO has the authority to receive, investigate, and resolve complaints related to incarcerated individuals' health, safety, welfare, and rights.

Investigative Actions

- OCO reviewed DOC policies 350.100, 350.255 and 320.200.
- OCO listened to the recorded disciplinary hearings, reviewed infraction paperwork filed and IIU investigation.
- OCO interviewed the Complainant.
- OCO reviewed six months of Administrative Segregation data at Monroe and gathered additional information regarding incarcerated individuals who were held in administrative segregation for an extended period of time.
- OCO met with DOC staff at the facility level and Headquarters to raise concerns.

Detailed Summary of Incident

On October 31, 2020, the Investigations and Intelligence Unit (IIU) received information from a confidential informant (CI) that a hunger strike had been organized in the Complainant's minimum unit by the Complainant. On November 3, 2020, the Complainant was taken to solitary confinement while the incident is investigated. IIU interviewed the population on the tier, who did not disclose who organized the hunger strike; however, an additional CI named the Complainant. The investigation took 44 days to complete, and an additional 14 days passed before the Complainant received the infraction.

The Complainant was found guilty at his hearing, and MCC staff placed a facility prohibition, requiring a transfer and additional time in administrative segregation. Another 46 days passed before the Complainant was transferred out of solitary confinement, for a **total of 112 days in solitary confinement**. Per DOC policy, 320.200 Individuals will be housed in segregation for a maximum of 30 days regardless of the placement designation.

Based on the above concern, OCO requested additional data regarding individuals held in solitary confinement in MCC on administrative segregation status.

Findings

- **OCO finds that multiple individuals, including the Complainant, were held for an extended period of time in Administrative Segregation at MCC.**
 - The Complainant was placed in solitary confinement on November 3, 2020. IIU did not complete the investigation until December 17, 2020 and the Complainant was not issued an infraction until December 31, 2020. He was not released from solitary confinement until he transferred to another prison on February 23, 2021. **112 days spent in solitary confinement.**
 - A White incarcerated individual at MCC was placed in Administrative Segregation on January 18, 2021. IIU did not complete the investigation until March 24, 2021.
 - The incarcerated individual was accused of engaging in a riot which he claimed he was not part of. Although IIU said they would submit an infraction, there is no infraction in the system. He was not released from solitary confinement until April 19, 2021, when he was transferred across the state to Washington State Penitentiary. **90 days spent in solitary confinement.**
 - An Asian incarcerated individual at MCC was placed in Administrative Segregation on January 20, 2021. IIU did not complete the investigation until March 16, 2021.
 - The incarcerated individual was accused of engaging in a riot which he claimed he was not a part of. DOC staff asked IIU to make the investigation a priority. After close to two months in solitary confinement, it was determined that he was not involved and was released from solitary confinement on March 17, 2021. **56 days spent in solitary confinement.**
 - A Black incarcerated individual at MCC was placed in Administrative Segregation on January 18, 2021. IIU did not complete the investigation until March 16, 2021.
 - The incarcerated individual was accused of engaging in a riot. IIU attempted to charge him with four infractions, and he was only found guilty of one for yelling and throwing debris from his cell. He is still housed in solitary confinement. **97 days as of April 26, 2021, spent in solitary confinement at Monroe, he has since been transferred to solitary confinement at Coyote Ridge. 104 days total in solitary confinement as of May 3, 2021.**

- A White incarcerated individual at MCC was placed in Administrative Segregation on July 29, 2020. IIU did not complete the investigation until September 11, 2020.
 - The incarcerated individual was charged with a 603 infraction for attempting to receive mail with contraband. DOC claimed they could only house him in solitary confinement; however, after OCO met with DOC staff, he was released to population at Monroe on April 12, 2021. **257 days spent in solitary confinement.**
- A White incarcerated individual at MCC was placed in Administrative Segregation on September 16, 2020. IIU did not complete the investigation until November 23, 2020.
 - This incarcerated individual was accused of altering his J-pay player. He was charged with two infractions, one being an 893, which is altering items to hide contraband, although contraband was never found, and there was no evidence to support he ever had contraband. He was not released from solitary confinement until December 17, 2020. **92 days spent in solitary confinement.**
- **OCO finds that extended time in solitary confinement has significant, negative impacts on incarcerated individuals, impacting their release dates, communication with their families, and health, among other items.**
 - The following pictures of a housing cell and the recreation area are provided from MCC's intensive management unit (IMU) to demonstrate conditions within the unit.

Photo A: IMU Cell



Photo B: IMU Recreation Area



- DOC Policy 350.255 and the DOC Restrictive Housing Level System Grid provide for the following minimum privileges in administrative segregation:
 - Showers, ten minutes, three times a week
 - Recreation one hour a day, five times a week, in the above-pictured area
 - Limited telephone access
 - 1st class mail
 - At least two books or other publications
 - Ten personal photos
 - Up to \$10 weekly commissary order for personal hygiene and correspondence materials

- In non-COVID times, persons in administrative segregation or solitary confinement were allowed non-contact visits; however, all visitation was stopped due to COVID and the IMU at MCC is not wired for video visitation access. Communication with families was restricted to mail and limited telephone access.

- The World Health Organization, United Nations, and other international bodies have recognized solitary confinement as harmful to a person's health. In 2016, the National Commission on Correctional Health Care issued guidance to correctional health officials explaining that a period of confinement beyond 15 consecutive days is "inhumane, degrading treatment, and harmful to an individual's health."⁴

- DOC Policy 350.100 states that incarcerated individuals are not eligible for Early Release Time if they serve 20 or more days in Administrative Segregation in one calendar month. They are only eligible to begin receiving earned time again when they transfer or are returned to general population.

- **OCO finds that given the negative impact on the individual, the security risk presented by the persons reviewed by OCO did not justify the extended time in administrative segregation.**
 - DOC Policy 320.200 states that an individual may be assigned to Administrative Segregation when the individual (a) poses a significant risk to the safety and security of employees, contract staff, volunteers, and/or

⁴ Nat'l Commission on Correctional Health Care, Position Statement on Solitary Confinement (Isolation), <https://www.ncchc.org/solitary-confinement>.

other individuals, (b) requests protection or is deemed by employees/contract staff to require protection, (c) is pending transfer or in transit to a more secure facility, (d) poses a serious escape risk, or (e) is pending investigation for behavior that represents a significant threat.

- In the case examples discussed above, one individual spent 104 days in solitary confinement for yelling and throwing debris from his cell during a disturbance; one individual spent 92 days in solitary confinement for altering his Jplayer; one individual spent 56 days in solitary confinement under suspicion of involvement in a disturbance before being found to not have been involved at all; one individual spent 256 days in solitary confinement for attempting to receive contraband via mail. OCO does not disagree that disturbances and contraband qualify as security issues. However, the extended length of time in solitary confinement seems disproportionate to the actual threat of the incidents and the persons involved.

Recommendations

- DOC should create a hard deadline that persons must be released from solitary confinement within 30 days, whether through release to general population, transfer, or transition to a housing pod within IMU that allows for improved conditions.
- Investigations that result in a person's extended placement in IMU need to be evaluated for efficiency and whether the security threat justifies the length of stay in administrative segregation. To speed up investigations, DOC may need to deploy additional staff resources and/or provide greater oversight and approval by DOC HQ as to what constitutes a "significant threat" such that an extended investigation is required.



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
 OFFICE OF THE SECRETARY
 P.O. Box 41101 • Olympia, Washington 98504-1101

June 8, 2021

Joanna Carns
 Office of Corrections Ombuds
 2700 Evergreen Parkway NW
 Olympia, WA 98505

Dear Ms. Carns:

The Washington Department of Corrections appreciates the opportunity to respond to the May 6, 2021, Office of Corrections Ombuds (OCO) report on the “ investigation into multiple individuals held for an extended period of time in administrative segregation.”

Recommendation	Response
<p>DOC should create a hard deadline that persons <u>must</u> be released from solitary confinement within 30 days, whether through release to general population, transfer, or transition to a housing pod within IMU that allows for improved conditions.</p>	<p>Per policy 320.200 Administrative Segregation G.2., the Department has a policy statement and practice of housing an individual in “segregation for a maximum of 30 days, regardless of the placement designation.” Beyond that timeframe, the department has structured actions that must occur. Within those 30 days, there is an amount of due process that must occur. Mandatorily reducing the allotted 30-day timeframe across the board, regardless of circumstance and situation, contains risk for both incarcerated individuals and staff, and the department cannot agree with the recommendation. That said, the department is interested in creating more pathways for review and consideration up the organizational chain of command to include the missioned housing program administrator and a deputy prisons director to ensure that individuals are housed in segregation for the least amount of time, preferably less than 30 days.</p>
<p>Investigations that result in a person’s extended placement in IMU need to be evaluated for efficiency and whether the security threat justifies the length of stay in administrative segregation. To speed up investigations, DOC may need to deploy additional staff resources and/or provide greater oversight and approval by DOC HQ as to what constitutes a “significant threat” such that an extended investigation is required.</p>	<p>The Department sees merit and agrees with the recommendation. The Department will look toward requesting additional staffing resources to both investigate circumstances at the local facility level and evaluate and provide greater oversight from headquarters as to what constitutes an “extraordinary situation” such that an extended investigation is required.</p>

“Working Together for SAFER Communities”

Joanna Carns
June 8, 2021
Page 2

The Department has investigated the situations cited in the report and has worked toward resolution of both those cited and overall time spent in administrative segregation. It continues to actively work on methods to reduce time spent and improve conditions for time spent within administrative segregation. The Department does care about the mental and physical well-being of those in its custody and continues to work on betterment of conditions proactively and continuously for those in its custody, including those in administrative segregation. The Department has been working collaboratively with the Vera Institute of Justice since February 2019 to develop reforms to reduce the Department's use of restrictive housing safely and significantly. Since that time, the Department has successfully undertaken reductions in the total number of individuals in restrictive housing and reduction in the median length of stay in maximum custody.

The information provided in the administrative segregation report by the OCO was useful to ensure the Department of Corrections is doing everything it can to ensure an incarcerated person's time in the agency's custody is a fair and safe space for all incarcerated individuals.

We also appreciate your team's understanding of the unique processes across the correctional system and the addition of policies and procedures, as well as additional resource requests, being put in place to address them. We are working proactively to continuously improve quality assurance standards throughout the department. Moving forward, the Washington Department of Corrections will continue to collaborate with the Office of the Corrections Ombuds to strengthen procedures and practices that positive impact individuals' health, safety and welfare.

Sincerely,



Cheryl Strange
Secretary