

Report Analyzing And Recommending Options To Reduce Persistent Violence Committed By Inmates Housed In Or Released From Punitive Segregation That Use Means Other Than Extending Punitive Segregation Confinement

The Department's primary goal is to create a safe environment for our staff and those who are entrusted to our care. In recent years, corrections has begun to recognize that many populations become more violent when locked down, so departments have begun to reduce the dependence on lock downs as the first and only response to violent behavior. Punitive segregation is still a necessary tool in corrections, particularly for those who are continually violent, but alternatives are also necessary to have the safest jails possible.

Overall, the Department has pushed to ensure that a one-size fits all approach to those individuals in our care is not appropriate. The Department has pushed for specific training, response protocols, and new programs dedicated to properly managing and engaging distinct populations – adolescents, young adults, and severely mentally ill, to name a few. In addition to this, the Department has focused on 1) more effectively using punitive segregation when it is necessary and 2) researching, developing, and implementing a broader spectrum of options to address adverse behavior. Immediate and appropriate response is necessary, but just using punitive segregation for all adverse behavior is ineffective. Other options, which better facilitate the reentry of inmates back to general population and to the community, are required. Preparing inmates for reentry creates a safer environment for staff and inmates alike.

It is important to note that all efforts by the Department to more effectively utilize punitive segregation involve not only developing alternative responses to adverse behavior, but also implementing and practicing the supportive programming and management approaches that incentivize and promote pro-social behavior among the individuals within our care. In this way, the New York City Department of Correction, with the support of the Board of Correction, has been pioneering alternatives to reduce the use of punitive segregation.

Previous Accomplishments

In the last two years, DOC has fundamentally changed the way we use punitive segregation. The average daily population in punitive segregation has been reduced by more than 75% since Commissioner Ponte started. Two years ago, there were more than 600 individuals in punitive segregation every day. Today, there are approximately 160 inmates total in any type of punitive segregation, including those who are out of their cells for several hours each day. In NYC, less than 2% of the jail population is in any form of punitive segregation on any given day, which is less than half the national average.¹ The number and percentage is even less when only isolating for those in full punitive segregation that includes 23 hour lock-in, which does not include the structured hours allowed out for mandated services such as law library, congregate religious services, and barbershop, to name a few.

DOC has been developing systems to manage behavior that do not rely on punitive segregation as its only response to infractions. The changes started in 2013, with the elimination of punitive segregation for seriously mentally ill (SMI) inmates. These SMI inmates are now sent to the Clinical Alternative to Punitive Segregation (CAPS), so that they can receive the clinical care that they need and their behavioral issues can be addressed in meaningful ways. Additionally, while not directly an alternative to

¹ In Dec. 2015, the national avg. of inmates within prisons in solitary was 4.4% (per the Economist).

punitive segregation, the Department's Program for Accelerating Clinical Effectiveness (PACE) specifically serves to divert those who are SMI into therapeutic housing units that are meant to properly treat such inmates so as to prevent acts of violence that might otherwise have led to punitive segregation.

In 2014, adolescents were also removed from punitive segregation, and the use of punitive segregation was ended for that age group (16-17 year olds). Now, adolescents with behavior problems are managed in one of two therapeutically-focused areas: Second Chance and Transitional Restorative Unit (TRU). This is in addition to specific training provided to staff working with adolescents that stress engagement, de-escalation, and conflict resolution. An incentive-based behavioral model was introduced to replace a previously punitive model. All of these changes were based on extensive field research – DOC staff traveling to observe other jurisdictions with adolescent management models, such as those in Maine, Virginia, Connecticut, and Massachusetts. Staff brought best practices back to New York City and applied them, with a renewed focus on both the therapeutic housing models as well as better school and program engagement. In fact, in partnership with the DOE, DOC increased the school day for adolescents to 5.5 hours to better engage adolescents.

In 2015, the use of punitive segregation for adults in DOC custody was also fundamentally transformed to reflect the need for a more effective use of the policy. Previously, full punitive segregation had been the response to all infractions. With the reforms, a tiered system of proportional responses and a long-term management alternative were created. In addition to Punitive Segregation I (the traditional unit), Punitive Segregation II (PSII) was created as a response to non-violent or Grade II infractions. In PSII, inmates receive seven hours of out-of-cell time each day. Punitive Segregation I is now focused on those with violent and Grade I infractions.

The creation of Enhanced Supervision Housing (ESH) enabled the department to address some of the more persistently violent and influential individuals in our custody. Individuals with violent histories, influence in directing or inciting violence, and need for extra security precautions and management attention can be housed safely in ESH, protecting the general population from their influence. Previously, limited housing options made punitive segregation the safest place to keep these people as they were identified. Furthermore, ESH's close supervision and programming safely manages those who have demonstrated propensities for violence, reducing future violent acts, which in turn reduces the use of punitive segregation.

ESH does not replace punitive segregation as an immediate sanction for a violent act, but it does provide a long-term management option for repeat offenders who have been responsible for/involved in multiple acts of violence or for those who are returning to custody with persistent violent histories, as demonstrated during previous, recent incarcerations. Previously, these two populations would have been long-term punitive segregation placements; today ESH is an option to safely house them instead.

Additional reforms have been enacted in regards to the use of traditional punitive segregation, resulting in a drastic decrease in both the number of inmates serving punitive segregation sentences and the amount of time they serve. For example, the maximum sentence for any infraction other than an assault on staff resulting in a serious injury is now 30 days. The inmate must remain out of punitive segregation for at least seven days before returning to punitive segregation and cannot serve more than 60 days in a six month period, unless he or she commits an egregious infraction during that time out, warranting an approved override.

In short, DOC has already made significant changes to the use of punitive segregation for the seriously mentally ill, adolescents, and persistently problematic inmates.

Each of the new areas created to manage these populations (CAPS, Second Chance, TRU, and ESH) focuses on preparing inmates to return to GP. Programming provided in these units is a key component in preparing inmates to successfully reintegrate.

Next Step

The next significant change to the use of punitive segregation is the removal of it as an option for young adult inmates. The system that is being established for young adults more closely resembles the adolescent system than the adult punitive segregation system. The young adults' behavioral challenges will be addressed with therapeutically-focused areas, close supervision in congregate settings, targeted programming, and individual treatment plans. Instead of going to punitive segregation, young adults are managed in Second Chance, TRU, and the new Secure Unit.

Furthermore, the young adult population will be served by a holistic management approach that utilizes a Positive Behavior Incentive System (PBIS). In the PBIS, young adults can earn privileges through good behavior. When a housing area remains engaged and incident-free, the house moves up a level and becomes eligible for additional incentives. This system also creates alternative disciplinary options, as the ramification for misbehavior can be lowering the house a level instead of having inmates serve punitive segregation time.

The balance within the young adult population is to properly manage a population that represents a larger percentage of violence than other populations and, unfortunately, also has stronger gang affiliations and influence. To address this, DOC has reached out to the National Network of Safe Communities, who have worked in other jurisdictions to identify networks and use those connections to reduce violence. We are optimistic that partnering with this organization can complement the efforts already underway, to reduce violence among the young adults and develop additional alternatives to punitive segregation to respond to behavior.

Future Steps

Since April 2015, the Department has been partnering with the Vera Institute's Safe Alternatives to Segregation program, with the goal of safely reducing the use of segregation and developing alternative disciplinary options. Vera's final report is expected in July 2016. Once the report is received, DOC will work with Vera to implement the relevant recommendations.

For example, one recommendation will be the development of programming for inmates who are currently in punitive segregation to prepare them for returning to a non-punitive environment. The concept geared towards identifying and affording inmates essential tools to effectuate successful reentry in GP has been rolled out in CAPS, Second Chance, TRU, and ESH. It will next be implemented in the Secure Unit. With Vera, we will work to expand these protocols to broader inmate populations.

Pros and Cons

Existing Options:

Pros: The creation of the housing areas discussed above allows DOC and our partners at Health + Hospitals to serve inmates' needs, which, in most cases, addresses the underlying reasons for behavioral issues and lowers rates of violence in the populations these areas serve. When compared with the old lock-down-only system (e.g. MHAUII), the new options (e.g. CAPS) have significantly lower rates of violence, particularly assaults on staff.

Cons: These alternative options cannot simply be wholesale applied department-wide for several reasons:

- CAPS specifically addresses the clinical needs of seriously mentally ill inmates. This model has been replicated in PACE in order to address the clinical needs of more inmates, but the treatment model is for inmates with mental illness and not for the general population.
- Second Chance, TRU, and Secure Unit were designed specifically in response to the developmental needs of adolescents and young adults, which are different than the needs of adults. Research shows that the prefrontal cortexes in young people are still developing, which affects decision making skills and impulse control, so they respond to different management strategies than the rest of the adult population. Even the adolescent and young adult management systems are not identical, because those populations have different needs.
- DOC does not have the physical space nor the staffing capacity to create secure, congregate, lock-out areas for the entire population.

Future Options:

Safe alternatives to punitive segregation are not limited to alternative programs or locations to house people. Alternatives include other disciplinary options, such as suspension of certain privileges for a time. The Department is now pursuing several avenues in the development of additional non-segregation disciplinary options.

The options suggested by the Vera Institute's Safe Alternatives to Segregation program will be assessed and considered once the complete report is shared with DOC.

Research

Throughout our reform process, DOC has continued to look for new ways to develop alternatives to punitive segregation:

- Vera Institute's Safe Alternatives to Segregation project: The Vera Institute's recommendations will be based on their study of the NYC system combined with national best practices. DOC will share the report with the Board once it is issued. This Vera project has experience working in eleven corrections systems; NYC DOC is benefiting from their knowledge. They have been studying successful strategies across the country and pulling on national expertise, which will be reflected in their recommendations.

- National Network of Safe Communities: DOC has reached out to the National Network of Safe Communities (NNSC) to implement a deterrence-based violence reduction strategy (in the style of “Project Ceasefire”) in NYC. NNSC has worked in communities and some prisons around the country and we believe that their model could make an impact in NYC. The Department looks forward to sharing more details about the programs in development as the projects move forward.
- Stonehill College and National Institute of Justice: DOC has engaged with a research team from Stonehill College who have proposed a study to explore opinions and impacts of restrictive housing units from uniformed staff, as well as alternative policies, programs, and housing units. This would allow for a broader exploration of the situational and underlying causes of prison violence as understood by both uniformed staff and by inmates who continually engage in violence against other inmates and staff – all of this so as to inform options on alternative methods to address such situations and persistent violence. However, as with all such research projects that delve into such new areas, the timeline related to this is focused on a 2-3 year study.