

### **Efforts to Reform Punitive Segregation and Create Therapeutic Alternatives to Address Persistent Violence by Individuals in NYC Department of Correction Custody**

In the last few years, New York City has fundamentally transformed the way it manages behavior, uses Punitive Segregation (PS), and offers therapeutic opportunities. PS is now used only when a less secure setting would threaten the overall safety of the jail and the population in it. Whenever possible, therapeutic alternatives are used to address individuals' needs and manage behavior long-term. In New York City, approximately 1% of the jail population is in PS on any given day, less than one quarter of the national average for prisons (4.4%) and one half the national average for jails (2.7%).<sup>1</sup>

The New York City Department of Correction (the Department) holds the safety of staff and inmates as its overarching focus in all operations and policy. The 14-Point Anti-Violence Reform Agenda guides the Department's work. This agenda includes goals spanning from reducing contraband to increasing programming to culture change. The Department is fundamentally changing the approach to corrections. It is moving away from a strictly punitive management model to an incentive-based model that encourages positive behavior and gives incarcerated individuals opportunities to attain goals. DOC is committed to developing a structured continuum of management and engagement. Additionally, the Department is recognizing that populations of incarcerated individuals must be managed according to their unique needs. It is focused on moving from a one-size fits all approach to a management approach that recognizes different needs in different populations.

The Department has particularly focused on the reform and reduction of PS. To this end, the Department recognizes that many populations may become more violent when locked down for long periods of time. Extended lock-in, as is the case in PS, has been shown to have detrimental effects for adolescents and young adults that may lead to mental health issues and possibly violence in the facility and in communities upon reentry.<sup>2</sup> In order to create the safest possible environment for staff and inmates alike, the Department has pursued extensive reforms and alternatives to PS for young people and for the seriously mentally ill. It is important, however, to note that the use of PS for adults is still a necessary tool in corrections for both behavioral control and facility security.

As stated above, the Department believes a one size fits all approach to individuals in our care is inappropriate. For this reason, we adopted specific training, response protocols, and new programs to properly manage and engage distinct populations including adolescents, young adults, and the seriously mentally ill. The Department views these policies as critical to its two-pronged PS reform approach, summarized as: 1) Using PS minimally and only when necessary to maximize its effectiveness as a tool and 2) Researching, developing, and implementing a broader spectrum of alternative options to address adverse and violent behavior. PS is not always the best response to adverse behavior, particularly for young people and the seriously mentally ill. Incorporating other options, when feasible, which better facilitate the reentry of inmates back to general population and to their respective communities, is paramount in the Department's efforts. A population of individuals prepared for reentry creates a safer environment for staff, inmates, and New York City's communities.

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<sup>1</sup> In Dec. 2015, the national avg. of inmates in solitary was 4.4% for prisons and 2.7% for jails (Bureau of Justice Statistics).

<sup>2</sup> Castillo, L. C. (2015). No Child Left Alone: Why Iowa Should Ban Juvenile Solitary Confinement. *Iowa Law Review*. ssrn.2490101

It is important to note that while the Department is committed to using alternatives to PS whenever possible and in alignment with promoting facility safety, there are instances in which PS is necessary to separate a violent actor from the rest of the population. In these instances, which have become fewer as alternative options are expanded and improved, the Department is committed to ensuring that supportive programming and management approaches that incentivize and promote pro-social behavior are made available. In this way, the New York City Department of Correction, with the support of the New York City Board of Correction, has not only pioneered alternatives to reduce the use of PS, it has transformed the use of PS as a whole. The City is committed to continuously researching and exploring innovations that may offer additional tools to managing behavior and creating a safe environment in the jails.

### **Reducing the use of Punitive Segregation**

Over the last three years, the Department has fundamentally changed the way it uses PS. The average daily population in PS has been reduced by more than 75% since 2014. Three years ago, there were more than 600 individuals in PS at a given time. Today, there are approximately 110 inmates in PS. These incredible reductions are the results of two focuses: replacing PS with alternative models and reforming how PS is used.

The dramatic decreases in the PS population are highlighted by the corresponding increases in alternative therapeutic housing. At the start of 2014, the department used only one alternative to PS, housing less than 1% of the population there, while around 6% of the population was in PS. Today there are six PS alternative housing types, which are detailed in the section below. While the PS population has shrunk to less than 2% of all inmates, the proportion housed in these alternatives has increased to around 4%. This increase is demonstrative of two principles: first, that the department has, for critical subgroups, moved away from PS in favor of specialized therapeutic approaches; second, that there are opportunities to identify new segments of the population that could similarly benefit from targeted intervention.

### **Reforms to the Punitive Segregation Model**

One factor in the reduction of PS was its elimination for adolescents and young adults under the age of twenty-two. In April 2014, there were over 250 individuals between the ages of 16-21 years old in PS. Today there are zero. Reforms to the way PS is used for adults, which are discussed in this section, are also a major contributor to these reductions.

In 2015, the use of PS for adults in Department custody was fundamentally transformed by the creation of a tiered system of proportional responses and long-term management alternatives. Previously, PS had been the only response to all infractions. In 2015, however, 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. With the addition of this unit, PS I now focuses specifically on violent Grade I infractions. The Department believes this tiered response better aligns the use of PS with a policy of proportionality. Utilizing a punitive response that is proportional to the infractions committed furthers the Department's goal of behavior control through principles of restorative justice. PS is no longer used as a blanket response to infractions. It is now utilized primarily as a practical instrument to maintain safety, because it separates violent individuals from others and serves as a swift and certain response to acts of violence and Grade I infractions.

The Department supplemented these reforms by establishing maximum PS sentences of thirty days for most offenses. Further, new length of stay limits require that, in most cases, individuals who serve thirty consecutive days be released from PS for at least seven days before returning and cannot serve more than sixty days in a six month period, unless he or she commits an egregious infraction that warrants an approved override during his or her time out. Such overrides are only approved when the alternative would place inmates and staff in direct danger. Overrides have been used sparingly since the reforms were implemented. Since early 2015, there have only been 224 30-day overrides and twenty-three 7-day overrides.

### **New Approaches to Managing Behavior**

As an alternative to punitive responses to infractions, the Department has developed a number of housing categories that offer therapeutic approaches to addressing maladaptive behaviors and promoting pro-social behaviors. Through enhanced programming, individualized planning, incentive-based models, and interdisciplinary staffing, inmate behavior is managed holistically to help ensure successful reintegration into general population and promote improved reentry outcomes.

For several years, the Department has focused on developing systems and programs to address infractions in a more therapeutic manner, thereby reducing dependence on the use of PS. These changes were first introduced in 2013 when PS was eliminated for seriously mentally ill (SMI) inmates. Recognizing that PS can potentially worsen mental illness and intensify maladaptive behaviors, the Department developed the Clinical Alternative to Punitive Segregation (CAPS) unit to instead provide these inmates with clinical care to better address behavioral issues.

In 2014, PS was also eliminated for adolescents (16-17 year olds) in recognition of the potentially negative consequences on brain development. As an alternative, adolescents with behavioral issues are managed in one of two specially designed units: Second Chance and the Transitional Restorative Unit (TRU). Both units employ an incentive-based behavioral model as opposed to a punitive one. Additionally, the Department has enhanced staff training efforts to ensure that all staff that work with adolescents receive targeted training in engagement, de-escalation, and conflict resolution. These changes were developed based on correctional best practices across the country, with information acquired through extensive field research to jurisdictions with successful adolescent management models including Maine, Maryland, Missouri, and Massachusetts. Department staff applied and refined best practices for its youth population with a renewed focus on therapeutic housing models, reduced staff to adolescent ratios, structured programming opportunities, and better school engagement. In partnership with the NYC Department of Education (DOE), the Department increased school day hours for adolescents to 5.5 hours in these units. As a result, cell study services were eliminated and additional access to engage with teachers was afforded.

The most recent reform to the Department's use of PS was ending the practice for all young adults (18-21 years old). This historic effort made New York City the first in the nation to eliminate PS for this population. In June 2016, PS was eliminated for all 18 year olds and it was eliminated for the remaining young adults in October 2016. Similarly to adolescents, behavioral challenges are now addressed through therapeutic housing options including Second Chance and TRU. However, additional, more restrictive options including Secure Unit and the Enhanced Supervision Housing Entry Unit are also offered for this age group due to the presence of strong gang affiliations and influence as well as the

disproportionate rates of violence exhibited by young adults. These housing units offer close supervision in congregate settings, targeted programming, and individual treatment plans.

To supplement these efforts to move away from punitive responses, an incentive-based behavior model is employed for young adults in general population. Through the Positive Behavior Management System (PBMS), 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. The model provides personal recognition as well as team incentives for following the code of conduct, remaining infraction-free, maintaining clean areas, and participating in programming. This system also creates alternative disciplinary options, as the ramification for misbehavior can be lowering the house a level and the loss of earned privileges, instead of PS.

The Department has also effectively ended the use of traditional PS for women in its custody. The current structure of restrictive housing for women involves a progressive lock-out system with substantial program offerings that target the individualized and gender-specific needs of the population.

### **Alternative Therapeutic Housing Unit Descriptions**

The Department has drastically reduced its use of PS by creating population-specific alternatives that serve to address the multi-faceted factors resulting in challenging behavior in order to prevent future violence and infractions. We hope to expand on these alternatives by working with partners to identify more groups who may benefit from targeted programming and therapeutic responses to negative behavior.

#### Clinical Alternative to Punitive Segregation (CAPS)

As mentioned earlier, the CAPS unit was opened in 2013 to offer an alternative to PS for seriously mentally ill inmates who have committed an infraction. The Department now has two CAPS units – one in AMKC and one in RMSC. Modeled after in-patient forensic wards, clinical staff are on the unit floor at all times, alongside correctional personnel. This model enables a therapeutic approach to be taken to address behavioral issues, engaging both clinicians and correctional staff as members of a treatment team. Individual and group therapy and supervised activities are used to promote pro-social behavior. For inmates in CAPS, out of cell time is based on clinical determination of the individual's ability to positively interact with peers and staff.

On a recent date in June, there were 46 people in CAPS, less than 1% of the overall population.

#### Program to Accelerate Clinical Effectiveness (PACE)

While not an alternative to PS, PACE is a program developed to ensure that the Department does not only take reactive actions to address violence, but also offers preventive care to reduce violence in its facilities. Opened in April 2015, PACE is a therapeutic housing unit for SMI inmates offering high levels of staffing and a team-based approach that includes mental health clinicians, treatment aides, psychiatrists, creative arts therapists, and discharge planners to engage patients in group and individual therapy and structured recreation with a clinical focus. Inmates are not placed in PACE due to an infraction. Rather, individuals are placed if they would benefit from additional mental health resources or assessment, or if they are at risk of decompensating. As with CAPS, there is strong collaboration

between clinical and correctional staff, both of whom are on the unit floor at all times. Treatment teams develop individualized support plans specific to the treatment needs of each inmate.

There are now five PACE units – two in AMKC, two in GRVC, and one in RMSC. Inmates in PACE receive the standard 14 hours of lock out time. On a recent date in June, there were 67 people in PACE, less than 1% of the overall population.

Each PACE unit serves a clinically unique population. They were developed and are operated by the Department and Correctional Health Services (CHS) in collaboration. The Department and CHS continue to identify additional populations who would benefit from such units and are designing additional units to serve these groups.

### Second Chance

Second Chance was created for adolescents and young adults who commit low-level infractions that do not result in serious injuries and who exhibit behavioral challenges that require individualized programming prior to reintegration into the general population. Programming in the unit is structured and designed to promote improved decision-making and pro-social behavior. Second Chance units have interdisciplinary support teams that include facility, healthcare, and educational staff amongst others who help develop individualized behavior support plans for each inmate and review progress towards that plan with input from the inmate to determine if discharge from the unit is appropriate. Individuals in Second Chance are allotted the full 14 hours of lock out per day.

On a recent date in June, there were 21 people in Second Chance, less than 1% of the overall population and 2% of the total 16-21 year olds.

### Transitional Restorative Unit (TRU)

The TRU unit was designed for adolescents and young adults who pose a more serious threat to others and/or the operation of the facility. Individuals are assigned to this unit for engaging in behavior that violates departmental rules and regulations, particularly for those engaging in violent acts. The TRU unit provides close supervision, treatment, and support to encourage positive behavior. Like Second Chance, each individual in TRU receives an individualized behavior support plan developed by the facility's treatment team. The plan denotes all planned activities, therapies, and responses, and is reviewed on a weekly basis by the support team and amended as needed. Individuals in TRU are allotted the full 14 hours of lock out per day.

On a recent date in June, there were 74 people in PACE, less than 1% of the overall population and less than 7% of the total 16-21 year olds.

### Secure Unit

Secure Unit is a special housing category opened in June 2016 for young adults with a history of persistent violent and/or assaultive behavior whose behavior has resulted in serious injury. The unit's programming is designed to focus on rehabilitation, address root causes of violence, and minimize idleness. An interdisciplinary support team is in place to develop and monitor individualized support plans for each young adult. The support team meets weekly to review progress and also meets with the young adult to discuss progress towards the objectives outlined in the individual support plan. There are three phases of varying restrictiveness in Secure Unit, each of which must be successfully completed by

following rules, exhibiting positive behavioral changes, and participating in programming before consideration can be made for transition to the next phase, and eventually, into general population or another less restrictive unit. Lock out in Secure Unit varies by phases, with 10 hours of lock out per day in Phase 1, 12 hours in Phase 2, and 14 hours in Phase 3.

On a recent date in June, there were six people in Secure Unit, less than 1% of the overall population and less than 1% of the total young adult population.

#### Enhanced Supervision Housing (ESH)

The creation of Enhanced Supervision Housing (ESH) enabled the Department to address some of the more persistently violent and influential individuals in its 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, thereby protecting the general population from their influence and demonstrated proclivity for violence. Prior to the comprehensive PS reforms, limited housing options made PS the safest place to keep these individuals as they were identified. Now, due to ESH's close supervision and resources, these individuals are given the opportunity to earn their way back to the general population by demonstrating reformed behavior and active participation in programming specifically designed to promote jail safety, reduce idle time, and prepare individuals for successful release to the community. Furthermore, the structure of ESH incorporates four levels that range in restrictiveness and create the incentive to participate in programming and maintain positive behavior.

ESH provides a long-term management option for perpetrators of persistent or egregious acts of violence. Previously, this population would have been long-term PS placements; today, ESH is an option to safely house them instead.

ESH also plays a pivotal role in delivering programming to young adults (ages 18-21) who pose a threat to the safety and security of the general population. By separating these young adults, the Department is able to provide educational services and implement targeted programming in a safe and secure environment that affords at least seven hours of daily lockout. Young adults in ESH, like adults, have the ability and incentive to earn trust through positive behavior and participation in recreation, education, and a skill-building, self-improvement program designed to promote jail safety, reduce idle time, and prepare young adults for successful release to the community. For example, the least restrictive level, ESH Level 4, affords young adults a 14-hour lockout that includes vocational training and the opportunity to attain an OSHA certification. The ESH model continues to evolve as the Department considers what best practices are best suited for this challenging population and incorporates them into the model.

On a recent date in June, there were 151 people in all of the ESH units, less than 2% of the overall population.

#### **Results**

Following the implementation of these innovative programming and reform initiatives, there have been department-wide decreases in serious violence. Between FY15 and FY16, Uses of Force (UOF) resulting in serious injury dropped by 44%. In the same period, serious injuries to inmates from fights and assaults dropped by 19% and inmate assaults on staff with serious injury declined by 43%.

Also due in part to these reforms, there have been notable decreases in incidents involving young adults (18 to 21 years old). Between FY15 and FY16, UOF with serious injury decreased by 58%, UOF with minor injury decreased by 10%, and assaults on staff decreased by 27%. In the first few months of FY16, all young adults were removed from PS and housed in a therapeutic alternative.

The Department's units for SMI inmates have also shown positive results, with findings indicating that inmates' rate of committing serious rule violations decreased by more than a third after placement into CAPS and by more than 50% after placement into PACE. Involvement in UOF decreased by 67% for inmates placed into CAPS and 74% for inmates in PACE.

These results are incredibly encouraging, but the Department acknowledges that there is more work to be done. In short, the Department has made significant changes to the use of PS for the seriously mentally ill, adolescents and young adults, and persistently problematic inmates.<sup>3</sup> Each of the new areas created to manage these populations (CAPS, Second Chance, TRU, Secure, and ESH) focuses on preparing inmates to return to general population. These transformations in Department culture and protocol have resulted in observable reductions in violence department-wide. Further, these reforms support the Department's ongoing efforts to prepare inmates to successfully reenter the community upon release. The Department continues to look for additional opportunities for reforms to the management system.

### **Future Steps**

The Department continues to work with other jurisdictions around the country and other experts in the field to develop programs and procedures that may reduce violence or be better suited than PS to respond to negative behavior.

- 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. With Vera's report recently being completed, the Department is preparing to review findings and work with Vera to implement the relevant recommendations.
- The Department 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 uniformed staff along with inmates who continually engage in violence against other inmates and staff. This data will help inform alternative methods to address situations of persistent violence. As with all research projects that delve into such new areas, the timeline related to this is focused on a 2-3 year study.

The Department continues to expand partnerships with community partners and outside agencies to provide even better targeted services to all people in custody. These services can address behavioral challenges, reduce violence, and prepare those in custody to successfully return to the community.

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<sup>3</sup> The use of punitive segregation has been completely eliminated for adolescents and young adults in Department custody.

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

Additionally, the Department is identifying additional populations who can benefit from targeted therapeutic programming – both to prevent and in response to infractions. For example, best practices relating to the management of gang members, veterans, and those facing addiction from around the country are being examined to determine how they could be adapted for the New York City jail system.

Looking further into the future, opportunities for new facilities will assist the Department to further reduce violence and offer more programming options.

City-wide efforts are also factoring in to the Department's evolving models.

- The state's recent passage of the long-awaited Raise the Age legislation opens new possibilities for managing the adolescent population with the Administration for Children's Services (ACS) instead of in an adult jail setting.
- Increased access to mental health services in the community means that more people are able to get treatment they need and can avoid coming to jail.
- More diversion opportunities also reduces the number of people who come to jail in the first place.

All of these efforts, which keep many out of Department custody, allows the Department to focus more attention to those who are in the city jails.

## **Conclusion**

The New York City Department of Correction is on the frontlines of national punitive segregation reform. Reducing the Department's reliance on PS is a critical component of the overall violence reduction agenda. A more holistic approach to behavior management will help make the facilities more secure for staff and inmates alike. The benefit of these measures in Department facilities, New York City communities, and as a model for reform around the nation is profound. However, further reform and development of safe, effective alternatives to PS remain paramount to the Department's goal of improving facility and community safety.

The Department must continue evolving to appropriately address the variety of behavioral and therapeutic needs of its populations. The need for a highly secure housing option to address the most violent and consistently violent individuals in Department custody remains. By continuing to expand programming and PS alternatives, however, the Department will be more capable of individualizing its care and promoting policies that effectively treat and prevent violent behavior, making a safer environment for all staff and individuals in its custody.