

# **Punitive Segregation Overrides: Quarterly Analysis**

**April 1, 2016 - June 30, 2016**



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The New York City Board of Correction (BOC) is a nine-person, non-judicial oversight board that regulates, monitors, and inspects the correctional facilities of the City. The Board of Correction establishes and ensures compliance with Minimum Standards regulating conditions of confinement and correctional health and mental health care in all City correctional facilities.

**The Board of Correction carries out independent oversight and enacts regulations to support safer, fairer, smaller, and more humane NYC jails.**

## Overrides Received Through June 2016

In January of 2015, the New York City Board of Correction (“Board”) amended its Minimum Standards (“amendments”) to include provisions limiting the use of punitive segregation.<sup>1</sup> These reforms have contributed to a dramatic decrease in the punitive segregation population in City jails. For example, on June 30, 2016, the total punitive segregation population was 143, as compared to the same day in 2014, when the population was 580 – a 75% decline.

The amendments allow for targeted operational flexibility — i.e., overrides — in the rare instances when inmates engage in “persistent, serious acts of violence”.<sup>2</sup> On such occasions, the Chief of Department (“Chief”) may grant an override to place the individual in punitive segregation for a period exceeding 60 days in six months.<sup>3</sup> As discussed in previous reports, the amendments also allow the Chief to waive the requirement that inmates be released for at least seven days after 30 consecutive days in punitive segregation. Analysis of those exceptions, referred to as seven day waivers, will be released in December 2016.<sup>4</sup> Below is a summary of override requests received by the Board through June 2016.

**Table 1: Override Requests Received**

	Received	Approved	% Approved	Rejected	% Rejected
April 2015	0	0	0%	0	0%
May	4	3	75%	1	25%
June	5	3	60%	2	40%
July	18	16	89%	2	11%
August	15	12	80%	3	20%
September	17	14	82%	3	18%
October	18	14	78%	4	22%
November	22	19	86%	3	14%
December	15	13	87%	2	13%
January 2016	13	13	100%	0	0%
February	10	9	90%	1	10%
March	6	5	83%	1	17%
April	15	13	87%	2	13%
May	7	5	71%	2	29%
June	12	8	67%	4 <sup>5</sup>	33%
SUM	177	147	83%	30	17%

The 147 approved overrides received through June impacted 90 individuals, as some individuals received multiple overrides. There are four individuals who each received five overrides. On average, these four individuals spent 36% of their time (n=187 days) in punitive segregation in the period between the amendments taking effect (February 20, 2015) and the end of this quarter (June 30, 2016).

<sup>1</sup> For more information on the amendments, see the previous report on punitive segregation reforms available at: [http://www1.nyc.gov/assets/boc/downloads/pdf/Punitive%20Segregation%20Reforms%20and%20Exceptions\\_Recent%20Results.pdf](http://www1.nyc.gov/assets/boc/downloads/pdf/Punitive%20Segregation%20Reforms%20and%20Exceptions_Recent%20Results.pdf)

<sup>2</sup> § 1-17(d)(3).

<sup>3</sup> § 1-17(d)(3) and (d)(4).

<sup>4</sup> The Board is continuing to monitor periodic placement reviews of inmates sentenced to 60 day sentences, young adult placement in punitive segregation, and the requirement to provide cognitive behavioral therapy. More reports on these changes to punitive segregation are forthcoming.

<sup>5</sup> One override was neither approved nor rejected in June. However, the inmate was not sent back to punitive segregation. Consequently, it is classified as rejected in this report.

## Findings on 60 Day Overrides

The following is an analysis of the override requests received by the Board and reviewed by the Chief from April 1, 2016 through June 30, 2016.

**The Chief approved the majority of override requests.** In this reporting period, 26 overrides were approved, impacting 23 individuals (three individuals each received two overrides).

- Most of the overrides approved were for inmates housed in Otis Bantum Correction Center (OBCC, six overrides), Brooklyn Detention Complex (BKDC, five overrides), Manhattan Detention Complex (MDC, four overrides), and West Facility (four overrides).
- In this quarter, eight overrides were denied. Three of these overrides were requested for splashing or spitting on staff, two were for punching or hitting staff, one was for assaulting an inmate, one was for attempting to spit on a staff member, and one was for advancing towards a member of staff.

Inmate-on-inmate assaults triggered the greatest number of overrides. Thirteen of the 26 approved overrides (50%) were granted based on inmate assaults, ten of which were granted for slashing another inmate or facilitating the slashing of an inmate. In the previous quarter (January through March, 2016), assaulting staff triggered the greatest number of overrides with inmate assaults making up 32% (n=9) of the approved overrides. See *Table 2*.

**Table 2: Categories of Incidents Triggering Override Approvals**

	Count	Percentage
Assault or attempted assault on staff (splashing or spitting <b>ONLY</b> )	2	8%
Assault or attempted assault on staff ( <b>OTHER THAN</b> splashing or spitting)	8	31%
Inmate Assault	13	50%
Lighting fires or flooding the cell	3	12%

The three inmates who received overrides for lighting fires or flooding the cell are all detained on remand status, are classified as Red ID and Enhanced Restraint, and have received an average of 29 infractions for their current incarceration.<sup>6</sup>

**Most incidents triggering overrides occurred three weeks or more after the inmates' release from punitive segregation.** An average of 35 days elapsed between each individual's release from punitive segregation and the override-triggering incident, compared to 24 days in the previous report and 57 days in the report covering September through December 2015.

**All of the individuals sent back to punitive segregation on overrides had been assigned to high-classification or special housing units at the time of the override-triggering incident.** Almost half of the incidents (n=12) occurred in Enhanced Restraint housing, with another four incidents occurring at the West Facility. The other areas where inmates were assigned at the time of the override-triggering incident include: administrative segregation (n=2), Enhanced Supervision Housing (n=1), General Population Max (n=5), Infirmary (CMC, n=1), and Transitional Restorative Unit (n=1).<sup>7</sup>

<sup>6</sup>Enhanced Restraint refers to a status the Department gives an inmate who exhibits violent behavior or is found in possession of a scalpel, hobby knife, razor blade, or other dangerous instrument. When an Enhanced Restraint inmate is moved within the facility or to and from a facility, the inmate is restrained with handcuffs, security mitts, leg irons, and waist chains. Red ID status refers to a status the Department gives an inmate who has been found in possession of, or has used, a weapon. When a Red ID inmate is moved to and from a facility, he is restrained with handcuffs, security mitts, and waist chains.

**As in prior quarterly reports, individuals sent back to punitive segregation on overrides had relatively long lengths of stay in City jails.** The 23 override recipients had been in custody for an average of 579 days at the time they were returned to punitive segregation. In contrast, the average time in custody for all people in Department custody is 176.5 days.<sup>8</sup>

**Individuals sent back to punitive segregation on overrides have spent extensive time in punitive segregation during their current and previous incarcerations.** On average, the 23 people had spent a total of 383 days in punitive segregation over the course of their current and previous incarcerations<sup>9</sup> and 244 days during their current incarceration.<sup>10</sup> On average, before the Board's reforms this population spent 47% (n=246 days) of their time in custody in punitive segregation. Since the reforms, they have spent 30% (n=132 days) of their time on average in punitive segregation.

The three people who each received two overrides in this quarter spent 54 days on average in punitive segregation out of the 90 days in this reporting period. They had been incarcerated for an average of 794 days, over two years, when they received the most recent override.

**More than one third of individuals who were sent back to punitive segregation on overrides were young adults.** 39% (n=9) of the 23 individuals are young adults, ages 19 through 21. The average age of the 23 individuals is 23.5 years old, and the oldest is 31. Currently, the deadline by which the Department must end punitive segregation is October 11, 2016. Additionally, since July 12, 2016 the Board has prohibited 60 day overrides for young adults.

**The individuals who received overrides share a number of additional characteristics.**

- One of the 23 individuals is sentenced while 22 are detainees.
- 96% (n=22) are identified as gang affiliated.
- 91% (n=21) had three or more contacts with mental health services during their incarcerations.<sup>11</sup>
- Approximately two thirds of the overrides correspond with an inmate who has been designated as Enhanced Restraint status (65%, n=15).
- 83% of the overrides were granted for inmates who are Red ID status (n=19).
- On average, the 23 individuals were each involved in 30.6 reportable incidents<sup>12</sup> while in Department custody.<sup>13</sup> One person had only three reportable incidents on his record while one had 139. The median number of reportable incidents for this population is 16.
- Twenty one of the 23 individuals reported their race as black, two of whom also identified as Hispanic. The other two individuals identified as non-black Hispanic.<sup>14</sup> All of them are male.

<sup>7</sup> CMC (Centrally Monitored Cases) is a designation by which inmates are monitored so that the Department is continually aware of the housing, transport, and case status of such inmates. The Transitional Restorative Unit is designed for adolescents and young adults who pose a security threat to others.

<sup>8</sup> At the Board meeting on May 12, 2015, Commissioner Ponte presented an analysis showing 176.5 days as the average length of stay in City jails. This number represents the average length of stay as of a given point in time. It is not the average length of stay of all inmates who have been discharged from custody.

<sup>9</sup> This data includes time served in punitive segregation through June 30, 2016. The majority of the time spent in punitive segregation was served prior to the Board's reforms. On average, these 23 individuals had been incarcerated in the New York City Department of Corrections 4.9 times prior to their current incarceration.

<sup>10</sup> This data includes time served in punitive segregation from the start of the inmate's current incarceration through June 30, 2016.

<sup>11</sup> None of these individuals have been diagnosed with a serious mental illness (SMI). Inmates with an SMI are prohibited from placement in punitive segregation.

<sup>12</sup> "Reportable incidents" is a Department category included in the override paperwork. These incidents include: contraband discovery, destruction of Department property, serious injuries, slashings, and uses of force. Logbook entries such as splashings and spitting are also considered reportable incidents in the override requests.

<sup>13</sup> This includes reportable incidents from previous incarcerations starting in 2007.

<sup>14</sup> This information is taken from the Inmate Information System in which inmates self-report race and whether one is Hispanic.

## Sixty Day Sentences for Assaults on Staff

Since January 2016, the Department may grant a punitive segregation sentence of up to 60 days for a single infraction if someone assaults a staff member resulting in serious injuries.<sup>15</sup> When the last report was published there had been two such sentences. The Chief granted two additional sentences during this reporting period. In the first incident, the inmate served less than thirty days before being released for a week. He was then placed back into punitive segregation for less than a week and has not returned to punitive segregation since then. In the second incident, the person punched an officer multiple times. The officer sustained a broken bone. The inmate served the entire 60 day sentence and has since been released. As required by the Board's amendments, DOC conducted a 45 day review to determine whether the inmate could safely be placed in alternative housing and concluded that the individual needed to remain in punitive segregation for the duration of his sentence.

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<sup>15</sup>§ 1-17(d)(4)



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