



NEW YORK CITY BOARD OF CORRECTION

Analysis of Punitive Segregation Overrides

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.¹ These reforms have contributed to a dramatic decrease in the punitive segregation population in City jails. On June 30, 2018, the total punitive segregation population was 120, as compared to the same day in 2014, when the population was 580 – nearly an 80% decline.

The amendments allow for targeted operational flexibility — i.e., overrides — in the rare instances when individuals in DOC custody engage in “persistent, serious acts of violence.”² 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.^{3,4} Below is a summary of override requests received by the Board through June 2018.

Table 1: Override Requests Received April 2015 - June 2018

Quarter	Total Requested	Total Approved	Approved %	Denied	Denied %
Apr-June 2015	9	6	67%	3	33%
July-Sept 2015	50	42	84%	8	16%
Oct-Dec 2015	55	46	84%	9	16%
Jan-Mar 2016	29	27	93%	2	7%
Apr-June 2016	34	26	76%	8	24%
July-Sept 2016	20	18	90%	2	10%
Oct-Dec 2016	25	23	92%	2	8%
Jan-Mar 2017	18	16	89%	2	11%
Apr-June 2017	17	17	100%	0	0%
Jul-Sep 2017	17	10	59%	7	41%
Oct-Dec 2017	29	15	52%	14	48%
Jan-Mar 2018	12	6	50%	6	50%
Apr-June 2018	14	5	36%	9	64%
Totals	329	257	78%	72	22%

¹ For more information on the amendments and their implementation, see the Board’s previous reports on punitive segregation. N.Y.C. BD. OF CORR., [PUNITIVE SEGREGATION REFORMS AND EXCEPTIONS: RECENT RESULTS](#) (May 2016); N.Y.C. BD. OF CORR., [Punitive Segregation Overrides: Quarterly Analysis April 1, 2016 – June 30 2016](#) (Sept. 2016).

² § 1-17(d)(3).

³ § 1-17(d)(3) and (d)(4).

⁴ The amendments, § 1- 17(d)(2), also allow the Chief to waive the requirement that people in custody be released for at least seven days after 30 consecutive days in punitive segregation.

Findings on 60 Day Overrides July 2016- June 2018

The following is an analysis of the override requests received by the Board and reviewed by the Chief over a two fiscal-year period from **July 1, 2016 through June 30, 2018**. On June 9, 2017, Chief Murphy retired and Chief Jennings assumed responsibility for reviewing override requests.

The Chief approved the majority of override requests. Over the two-year review period, the Chief approved 110 overrides (72%), involving 68 unique individuals. Thirty-seven percent (n=25, 37%) of individuals received more than one override approval. One individual received six override approvals,⁵ five individuals received four override approvals, and three individuals received three override approvals.

While the Chief approved the majority of override request, rates of approval are decreasing over time. Over the first year, from July 2016 through June 2017, the Chief approved 93% of requested overrides compared to 50% from July 2017 through June 2018, representing a 43% difference in the approval rate. *See Table 1*

Assaults on Staff triggered the greatest number of overrides. Forty-seven of the 110 approved overrides (43%) were granted based on assaults on staff that did not include a slashing/stabbing or splitting/splashing.⁶ Assaults on Inmates that involved slashing/stabbings triggered the second most override requests (n=23, 21%) and Assaults on Staff that involved spitting/splashing triggered the third most override requests (n=21, 19%). These categories of incidents were the top three reasons for both Fiscal Year 2017 and Fiscal Year 2018. *See Table 2 and Table 3.*

Table 2: Categories of Incidents Triggering Override Requests July 2016 - June 2018

Incident Category	Total	Approved	Approved %	Denied	Denied %
Assault on Staff - Other	63	47	75%	16	25%
Assault on Staff- Splashing/Spitting	35	21	60%	14	40%
Assault on Inmate - Slashing/Stabbing	23	23	100%	0	0%
Use of Force	13	7	54	6	46%
Assault on Inmate - Other	8	5	63%	3	38%
Other	6	4	67%	2	33%
Weapon Found	3	2	67%	1	33%
Assault on Staff - Slashing/Stabbing	1	1	100%	0	0%
Total	152	110		42	

Table 3: Categories of Incidents Triggering Override Requests by Fiscal Year

Incident Category	FY 2017	FY 2018	Grand Total
Assault on Staff - Other	32	31	63
Assault on Staff- Splashing/Spitting	18	17	35
Assault on Inmate - Slashing/Stabbing	16	7	23
Use of Force	6	7	13
Assault on Inmate - Other	4	4	8
Other	3	3	6
Weapon Found	0	3	3
Assault on Staff - Slashing/Stabbing	1	0	1
Grand Total	80	72	152

⁵ This individual spent 247 days or 38% of his time in DOC custody in punitive segregation.

⁶ For requests listed more than one incident in support of the override, the most recent incident that lead to the request is used for this analysis.

Most incidents triggering override requests occurred three weeks or more after the individuals' release from punitive segregation. Between July 2016 and June 2018, an average of 36 days and a median of 28 days elapsed between each individual's release from punitive segregation and the override-triggering incident. Average remained the same for Fiscal Years 2017 and 2018. The median decreased from 28 to 26 from Fiscal Year 2017 to Fiscal Year 2018.

Most of the override requests came from one of three facilities: Otis Bantum Correction Center (n=45, 41%), West Facility (n=19, 17%), and the Manhattan Detention Center (n=16, 14%).

Most 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 request. Eighty-one percent (n=89, 81%) of the approved waivers involved individuals housed in high-classification housing. Thirty-four percent (n=37, 34%) occurred in Enhanced Restraint housing, and 27% (n=30) occurred in Enhanced Supervision Housing. The other areas where individuals were assigned at the time of the request include: administrative segregation (n=6), Punitive Segregation (n=9), Maximum Security (n=2), Centrally Monitored (n=2),⁷ and Escort (n=3).

As in previous reports, individuals sent back to punitive segregation on overrides had relatively long lengths of stay in City jails. The 68 override recipients had been in custody for an average of 504 days at the time they were approved to be returned to punitive segregation.⁸ In contrast, the average time in custody for all people in DOC custody is 66 days.⁹

Individuals sent back to punitive segregation on overrides have spent extensive time in punitive segregation during their current incarceration. The 68 people had spent an average of 176 days or 30% of their most recent incarceration in punitive segregation.¹⁰ The minimum days spent in punitive segregation was 61 days and the maximum days spent was 632 days.¹¹ The median time in punitive segregation was 143 days or 28% of the current incarceration.

The six people who received four or more overrides during Fiscal Year 2017 and Fiscal Year 2018 spent an average of 241 days in punitive segregation during their current incarceration. They had been incarcerated for an average of 552 days when they received the most recent override.

Nearly one-third of the individuals sent back to punitive segregation with an override (n=20, 30%) were discharged from custody directly from punitive segregation.

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

- Nearly all were pretrial detainees. 66 of the 68 were pre-trial detainees at the time of override and two individuals were city sentenced.
- Sixty-seven of the 68 individuals (n=66, 97%) were men and two were women (n=2, 3%). Fifty-four individuals (n=54, 79%) were African American, ten (n=10, 15%) were listed as Other and four (n=4, 6%) were White. The average age at the time of override request was 28 years old.
- 75% (n=51) had three or more contacts with mental health services during their incarcerations.^{12, 13}
- Three quarters of the overrides correspond with a person in custody who has been designated as Enhanced Restraint status (75%, n=51).
- 57% of the overrides were granted for individuals who are Red ID status (n=39).

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

⁸ If an individual had more than one override request approvals during the time period, the length of stay was calculated using the most recent override approval.

⁹ See N.Y.C. Bd. OF CORR., [DOC at a Glance](#) (May 2018).

¹⁰ This data includes time served in punitive segregation from the start of the person in custody's current incarceration through June 30, 2018.

¹¹ The individual who spent 631 days in punitive segregation for his current incarceration had a few long stays in punitive segregation before the reforms were put in place.

¹² Individuals with a serious mental illness (SMI) are prohibited from placement in punitive segregation. §1-17(b)(iii).

¹³ The Department designates people as "M status" in compliance with the Brad H. settlement in which the Court designated class members as people who have received, are receiving, or will receive treatment for mental illness three or more times during their incarceration.

- On average, the 68 individuals were each involved in 32 reportable incidents¹⁴ while in Department custody.¹⁵ One person had four reportable incidents on his record while one had 144. The median number of reportable incidents for this population is 19.

Sixty Day Sentences for Assaults on Staff

Since January 2016, “[i]nmates sentenced to punitive segregation for an assault on staff that causes staff to suffer one or more serious injuries, as listed under the Department's definition of "A" Use of Force Incidents, [have been eligible to] [] receive a punitive segregation sentence of up to sixty (60) days for that single infraction.”¹⁶ From July 2016 through June 2018, the Department granted forty-one 60-day sentences to 39 unique individuals. Two individuals received more than one 60-day sentence. Seven individuals received a 60-day sentence which resulted in them spending more than 60 days in a six-month period in punitive segregation, but for whom the Board did not receive override notifications. The Board will work with the Department to ensure, going forward, no one serves over sixty-days in six-months without notification to the Board.

The amendments further require:

[w]here an inmate's punitive segregation sentence for a serious assault on staff exceeds forty-five (45) days, the Chief of Department or a designee shall complete a review of the sentence forty-five (45) days after its commencement to determine whether the inmate could safely be placed in an available alternative housing unit for the remainder of the sentence. The decision, and the reasoning supporting it, shall be stated in writing and immediately sent to the inmate, the Board, and the relevant Correctional Health Authority.¹⁷

100% of the individuals receiving a 60-day sentence received the required 45-day review. None of the 45-day reviews resulted in an alternative placement for the remainder of the sentence. The Board will continue to monitor and report in more detail on these reviews in future reports. *See Table 4*

Table 4: Department approved 60 day sentences, July 2016-June 2018

Department Approved 60-Day Sentences¹⁸			
Month	2016 (Count)	2017 (Count)	2018 (Count)
January	0	2	1
February	1	1	0
March	1	0	1
April	0	0	1
May	1	0	2
June	1	0	0
July	1	1	-
August	4	1	-
September	0	1	-
October	3	3	-
November	6	2	-
December	1	6	-
Total	19	17	5

¹⁴ “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.

¹⁵ This includes reportable incidents from previous incarcerations starting in 2007.

¹⁶ § 1-17(d)(4).

¹⁷ § 1-17(d)(4)(iii).

¹⁸ Date is based on date the Board received notification of the 60-day sentence