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The Safe Alternatives to Segregation Initiative: Findings and Recommendations for the New York City Department of Correction

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Executive summary

In recent years, a diverse range of international and national organizations, advocates, policymakers, corrections practitioners, and the U.S. Department of Justice have called for prisons and jails to reform their use of segregation, also known as solitary confinement or restrictive housing. Whether citing the potentially devastating psychological and physiological impacts of spending 23 hours per day alone in a cell the size of a parking space; the cost of operating such highly restrictive environments; or the lack of conclusive evidence that segregation makes correctional facilities safer, these voices agree that change and innovation are essential endeavors.

Over the past few years, the New York City Department of Correction (the Department) has made it a priority to reduce the use of punitive segregation—one form of restrictive housing—in its jails, implementing a number of notable reforms that have helped the Department achieve major reductions. These existing efforts have laid the groundwork for further work.

In 2015, with funding from the U.S. Department of Justice, Bureau of Justice Assistance, the Vera Institute of Justice partnered with the Department to assist the agency in its efforts to reduce its use of segregation. Through this partnership, Vera conducted an assessment of New York City’s use of segregation in its jail facilities and recommends policy and practice changes to continue to reduce punitive segregation and reduce other types of restrictive housing.

In addition to describing reforms to punitive segregation to date that demonstrate New York City’s commitment to reform, this report presents the findings from Vera’s assessment, and recommendations that offer the Department strategies to further its efforts to reduce reliance on segregation and explore other opportunities for reform.¹

Commitment to reform

Prior to its work with Vera, the Department began implementing a number of reforms designed to reduce its use of punitive segregation, a sanction that is issued by the Department when a person is under investigation for, or has been found guilty by the Department’s Adjudication Unit of, a disciplinary violation. Major reforms include the following:

- the elimination of punitive segregation for young people aged 16 and 17, young adults between the ages of 18 and 21, and individuals with serious mental or physical disabilities;

¹ For a summary of Vera’s recommendations, see Appendix II.

- the institution of time limits on lengths of stay in punitive segregation, capping at 30 days consecutively and at 60 days cumulatively within six months;
- the adoption of disciplinary sanctioning reforms, including creating sanctioning guidelines; no longer requiring people to serve punitive segregation time owed for incidents that occurred in previous incarcerations; and imposing concurrent penalties rather than consecutive penalties when multiple infractions in custody have occurred;²
- the establishment of a new unit, punitive segregation II (PSEG II), to allow individuals found guilty of nonviolent and lower-level infractions at least seven hours per day out of their cells; and
- the creation of the Enhanced Supervision Housing (ESH) Unit, which has the goal of providing people the Department classifies as “the most dangerous” with targeted programming and at least seven hours a day out of their cell while simultaneously maintaining institutional safety and security.³

Assessment and key findings

Vera’s assessment of New York City’s overall use of segregation occurred between April 2015 and September 2016. At the time of this assessment, the Department had an average daily population of approximately 9,900 people and operated 12 facilities, nine of which are located on Rikers Island.⁴ In conducting its assessment, Vera adopted a broad definition of “restrictive housing” to include any housing unit which satisfies two conditions: 1) it holds incarcerated people separately from general population and 2) it places greater restrictions on out-of-cell time, congregate activity, and access to programming than in general population. Specifically, in addition to analyzing the Department’s use of punitive segregation, Vera also examined the

² New York City Department of Correction, *May Report to BOC* (New York: New York City Department of Correction, 2016).

³ While ESH is not a form of punitive segregation, meaning individuals are housed there for non-disciplinary reasons, the intention of the unit is to provide the Department with a less restrictive measure than their Central Punitive Segregation Unit (CPSU), which only allows individuals one hour of out-of-cell time a day, as a response to individuals the Department has identified as persistently causing safety challenges. The theory is, by housing people in a unit that is less restrictive than CPSU, more controlled than general population, and provides targeted programming like cognitive behavioral therapy, the Department can decrease the number of incidents that occur with this population and thus reduce its use of punitive segregation.

⁴ For the current average daily population, see The Knowledge Project, the Mayor’s Office of Criminal Justice, “Safely Reducing the New York City Jail Population,” <http://www.justice-data.nyc/safely-reducing-the-jail-population/>.

Department's use of its new Enhanced Supervision Housing (ESH) Unit, and units dedicated to housing individuals on Enhanced Restraint (ER) status.⁵

Over the course of the third quarter of 2015 (the most recent admissions data Vera received), 281 men—just over 3 percent of the Department's overall population—were in some form of restrictive housing or status on any given day.⁶ Vera's full report offers findings on the Department's use of different types of segregation, the use of segregation for people with mental health needs, and disparate contact with segregation by race and ethnicity. Below, Vera summarizes key findings.

The overall use of restrictive measures has decreased, primarily due to a reduction in the use of punitive segregation; however, some forms of restriction have increased.

Vera found that the two most restrictive forms of punitive segregation, Central Punitive Segregation (CPSU) and Restricted Housing Units (RHU), which are imposed as sanctions for rule violations, declined sharply over the assessment period—from a peak of 5.9 percent in May of 2014 of the Department's overall population to 1.6 percent at the end of the third quarter of 2015. Although the Department effectively eliminated CPSU and RHU for 16- and 17-year-olds by December 2014, its largest reductions in CPSU and RHU were achieved by limiting the number of young adults (18- to 21-year-olds) and adults sent to these units. The number of people over the age of 18 declined from 5.1 percent of the overall population to just 1.6 percent, a more substantial reduction than achieved through the elimination of punitive segregation for 16- and 17-year-olds.

Parallel to these reductions, however, some new restrictive units were created (i.e., PSEG II and ESH) and the Department expanded its use of other, already existing units (i.e., ER, a status designation by the Department that requires people who have committed violent acts to be put in enhanced restraints during any movement off the housing unit to which they are assigned).

⁵ Enhanced Restraint status is designed to ensure that people who have committed violent acts (e.g., assault or attempted assaults on staff or other incarcerated people, substantial property damage that places any person at imminent risk of harm, etc.) are put in enhanced restraints during any movement off the housing unit to which they are assigned. See Operations Order 01/13 "RED ID and Enhanced Restraint Status Inmates," 2-3, Sections III.B and IV.B.2. For definitions of the Department's various forms of restrictive housing, as well as other relevant housing, see Appendix I.

⁶ The total number of people in restrictive housing can be further broken down: approximately 1.7 percent of the total population in Department custody were in some form of punitive segregation and approximately 1.4 percent were in some other form of restrictive housing (i.e., Enhanced Supervision Housing and Enhanced Restraint Status). Due to the Department's extremely low use of segregation for women, Vera's data analysis excludes women so as not to misrepresent the overall impact of restrictive housing on people in the Department's custody. In the third quarter of 2015, the average daily population of women in Department custody was 710.

Although the Department emphasizes the designation of ER as a status and not a housing assignment or special unit, the assessment team noted that many people on ER status are housed together on a unit exclusively with other people on ER status.⁷ Vera's assessment found the number of people in ER housing on an average day doubled from 2014 to 2015. Vera observed that units that house people on ER status operate with varying levels of restriction and isolation, with some functioning similarly to general population units and some more closely resembling the most restrictive forms of punitive segregation.

While the Department has achieved an overall reduction in restrictive housing, from a peak of 6.1 percent of the total population to 3.2 percent in the third quarter of 2015, the growth of PSEG II, ESH, and ER units has resulted in a more gradual rate of decline than the reductions accounted for in CPSU and RHU.

Punitive segregation is the primary response for infractions—even nonviolent and lower-level infractions.

Vera's analysis showed that in 2015, more than 80 percent of those charged with an infraction were found guilty. Furthermore, over half of the sanctions that led to segregation issued by the Department's Adjudication Unit in the fourth quarter of 2015 were for nonviolent and lower-level infractions. Analyzing all admissions into punitive segregation in 2015, Vera found actual time served in CPSU peaks at 10 and 30 days, and in RHU at 30 days, indicating many people stay for the maximum time allowed, even when the RHU program is intended to incentivize positive behavior and move people back into general population before they max out on their segregation sanction.

Aside from punitive segregation, the Department has few sanction options to utilize in response to negative behavior. Currently, the only response options include punitive segregation, loss of good time (only available as a sanction for the city-sentenced population), a \$25 fine (automatically assigned to all guilty findings), and a verbal reprimand; the Department mostly uses punitive segregation and reprimands.⁸

⁷ Importantly, the only ER data indicator Vera had access to was a flag for ER housing units, not for individuals; therefore, Vera was only able to infer ER status if an individual was housed in an ER status housing unit. People who have an ER status who were housed in general population at the time of the assessment were not identifiable.

⁸ According to the Mayor's Office of Criminal Justice, the city-sentenced population is less than 15 percent of the Department's total population. For more information regarding the current proportion of city-sentenced individuals in the Department's custody, see NYC Criminal Justice, "Safely Reducing the New York City Jail Population," <http://www.justice-data.nyc/safely-reducing-the-jail-population/>.

Certain groups are overrepresented in restricted housing.

Echoing trends identified by researchers regarding America’s use of incarceration overall, people of color are disproportionately represented in the Department’s punitive segregation units, as well as in ESH and ER. For example, black people go to punitive segregation at 5.7 times the rate of white people, and to ESH and ER at 13.2 times the rate of white people.

Similarly, people with “M” designations (individuals who—during one incarceration event—have had contact with the mental health care system at least three times, or who are prescribed certain classes of medications) are overrepresented in admissions to CPSU. (See “Mental health population and the ‘M’ designation” on page 22.) In the third quarter of 2015, 57 percent of the population in CPSU had an “M” designation. Furthermore, Vera’s analysis revealed that individuals with an “M” designation are more likely to serve longer sentences in CPSU than those without an “M” designation: 15 percent of those with an “M” designation who went to CPSU spent 30 days or more in the unit, while 10 percent of those without an “M” designation who went to CPSU spent 30 days or more..

Vera’s research showed that, despite the work the Department has done to eliminate the practice, a small number of people with serious mental illness (SMI) may be spending time in the most restrictive forms of punitive segregation (CPSU and RHU).⁹ In the third quarter of 2015, there were 32 people diagnosed with an SMI admitted into CPSU and RHU a total of 39 times—some going more than once.

Key recommendations

Vera recognizes that the Department has already implemented a number of reforms to its policies and practices around punitive segregation. The full report offers numerous recommendations that will further its efforts to safely reduce the use of restrictive housing:

- Eliminate the use of punitive segregation for all nonviolent and lower-level infractions, and develop alternative sanctions and informal responses that empower officers to respond to misconduct timely and proportionately
- Improve conditions of confinement in all restrictive housing units, including improving access to mental health treatment and other programming, increasing opportunities for congregate activity, and increasing out-of-cell time.
- Establish achievable pathways out of ESH and ER status.
- Restructure the RHU program so people are able to complete the program before the 30-day time limit.

⁹ The data does not allow Vera to determine when an SMI diagnosis is assigned to an individual, so it cannot be determined if these individuals were diagnosed before, during, or after their time in CPSU or RHU.

- Create a structured reintegration process for people who are released from restrictive settings into general population, to help people succeed after a stay in segregation.
- Incentivize positive behavior in general population by increasing privileges, using security classifications to differentiate between privilege levels, and deferring segregation sanctions.
- Consult with New York City Health + Hospitals, the city agency that oversees the administration of health care in the city's jails, to find ways to share more mental health information with the Department without violating privacy protections. This way, the Department can make more informed decisions.
- Create a committee to study and address disproportionate minority contact with segregated housing, to better understand the issue; set goals for the agency; recommend and consider changes to practices or policies; oversee implementation of changes; and conduct periodic review of data and practice.
- Explore ways to improve staff wellness, particularly for those staff assigned to segregated housing units.

The Department's reform efforts to date have helped achieve significant reductions to punitive segregation: in May 2017, the Department reported 123 individuals in punitive segregation, which is reportedly a 90 percent reduction from its peak of 1,035 in 2012.¹⁰ As the Department moves forward with implementation of additional reforms to safely reduce the use of all forms of restrictive housing, these recommendations can serve as a springboard for improving the lives of the men and women who live and work in New York City's jails.

¹⁰ Joseph Ponte, Statement before the New York City Council Committee on Fire and Criminal Justice Services and Committee on Finance (New York, May 8, 2017), 7; Carleen McLaughlin, director of legislative affairs and special projects, "City Council Testimony," May 12, 2017, e-mail communication; Carleen McLaughlin, director of legislative affairs and special projects, June 13, 2017, e-mail communication. Of note, the figure reported is a snapshot of the population in punitive segregation on a given day (May 5, 2017). Since the population of punitive segregation is likely to vary day-to-day, Vera uses average daily population (ADP) figures throughout the report.

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I. Background

Over the past several decades, corrections agencies in the United States have increasingly relied on the use of restrictive housing—the most extreme form of confinement—as a routine population management strategy, either for behavioral or administrative reasons.¹¹ Recent reports have estimated the number of people in restrictive housing, also known as solitary confinement or segregation, in prisons nationwide to be between 67,400 and 100,000 individuals.¹² In jails, the most recent statistics indicate that on an average day in 2011-2012, 2.7 percent of people incarcerated were held in administrative segregation or solitary confinement, and that 18 percent had spent time in restrictive housing in the past 12 months.¹³ Although the use of segregation remains a mainstay of correctional management, there is mounting evidence pointing to potentially devastating psychological effects on individuals placed there, increased expense accrued from housing people in restrictive housing compared to general population, and harmful safety outcomes within institutions themselves and in the communities to which those who have been held under such severe conditions will return.¹⁴

As these negative impacts have come to light, concern about the overuse of segregation has grown. Corrections officials, researchers, policymakers, and a diverse range of national and international organizations have called for the reform of these practices and the development of alternatives. Advocacy organizations such as the American Civil Liberties Union oppose the use of solitary confinement, and media outlets like Solitary Watch and The Marshall Project have

¹¹ A person may be placed in what is known as “administrative segregation” for administrative reasons (e.g., custody management) rather than disciplinary ones.

¹² In the fall of 2015, 67,442 people were held in prison cells for at least 22 hours a day for 15 continuous days or more, according to a recent report by the Association of State Correctional Administrators and the Arthur Liman Program at Yale Law School. See Association of State Correctional Administrators (ASCA) and The Arthur Liman Public Interest Program, Yale Law School, *Aiming to Reduce Time-In-Cell: Reports from Correctional Systems on the Numbers of Prisoners in Restricted Housing and on the Potential of Policy Changes to Bring About Reforms*, November 2016. Previous research estimated the number of people in restrictive housing in prisons to be between 80,000 and 100,000 nationally. See ASCA and The Liman Program, Yale Law School, *Time-In-Cell: The ASCA-Liman 2014 National Survey of Administrative Segregation in Prison*, August 2015. These numbers do not include people in local jails, juvenile facilities, or immigration detention centers.

¹³ Allen J. Beck, *Use of Restrictive Housing in U.S. Prisons and Jails, 2011-12* (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, October 2015).

¹⁴ For psychological effects, see Stuart Grassian, “Psychiatric effects of solitary confinement,” *Washington University Journal of Law & Policy* 22 (2006), 325; and Craig Haney, “Mental health issues in long-term solitary and ‘supermax’ confinement,” *Crime & Delinquency* 49, no. 1 (2003), 124-156. About increased expense, see Daniel P. Mears and William D. Bales, “Supermax Incarceration and Recidivism,” *Criminology* 47, no. 4 (2009), 1135. For lack of evidence of increased safety, see Natasha Frost and Carlos E. Monteiro, *Administrative Segregation in U.S. Prisons* (Washington, DC: U.S. Department of Justice, National Institute of Justice, March 2016, NCJ 249749R.M), citing Ryan Labrecque, “The Effect of Solitary Confinement on Institutional Misconduct: A Longitudinal Evaluation” (PhD diss., University of Cincinnati, 2015).

published reports, news articles, and fact sheets on the topic.¹⁵ In 2013 and 2016 respectively, the Association of State Correctional Administrators and the American Correctional Association adopted new standards and principles regarding the use of segregation.¹⁶ In 2016, a number of additional developments indicated further support for reform:

- The U.S. Department of Justice (DOJ) published a report that called for widespread reform of restrictive housing practices in the Federal Bureau of Prisons and included a number of guiding principles for reform that are applicable to state and local correctional systems.¹⁷
- The National Commission on Correctional Health Care issued a strong position statement calling for the elimination of isolation greater than 15 consecutive days.¹⁸
- The National Institute of Justice (NIJ) issued a report—a meta-analysis of empirical research on administrative segregation—that seriously questions whether segregation achieves any of its stated or intended penological goals, and whether it is sound correctional policy.¹⁹

On the international level, in 2015, the United Nations (UN) General Assembly unanimously adopted the revised Standard Minimum Rules for the Treatment of Prisoners (known as the Nelson Mandela Rules), which prohibit indefinite solitary confinement and solitary confinement longer than 15 consecutive days, and which support specific restrictions on the use of solitary confinement for juveniles, pregnant women, and people with mental or physical

¹⁵ To view recent work by these organizations, see <https://www.aclu.org/issues/prisoners-rights/solitary-confinement>, <http://solitarywatch.com/>, and <https://www.themarshallproject.org/?ref=nav#.MIjJIIEOC>.

¹⁶ In August 2016, the Standards Committee of the American Correctional Association (ACA) voted to pass restrictive housing standards. In 2012, the Association of State Correctional Administrators (ASCA) teamed up with the Arthur Liman Public Interest Program at Yale Law School to survey directors of federal and state correctional systems on their policies regarding administrative segregation. The results of that survey were published in 2013 in the report *Administrative Segregation, Degrees of Isolation, and Incarceration: A National Overview of State and Federal Correctional Policies* (New Haven, CT: Yale Law School) and updated in 2015 with *Time-in-Cell: The Liman-ASCA 2014 National Survey of Administrative Segregation in Prison*. Additionally, in 2013, ASCA issued Restrictive Housing Status Policy Guidelines, available at <http://www.asca.net/pdfdocs/9.pdf>.

¹⁷ U.S. Department of Justice (DOJ), *Report and Recommendations Concerning the Use of Restrictive Housing: Final Report* (Washington, DC: U.S. Department of Justice, January 2016).

¹⁸ National Commission on Correctional Health Care (NCCHC), "Position Statement: Solitary Confinement (Isolation)," <http://www.ncchc.org/filebin/Positions/Solitary-Confinement-Isolation.pdf>.

¹⁹ Frost and Monteiro, 2016, 23.

disabilities.²⁰ Although non-binding, the Nelson Mandela Rules represent widely accepted international principles on the treatment of incarcerated people.²¹

Against this backdrop, several jurisdictions—including the New York City Department of Correction (the Department)—have begun implementing policy and practice changes to reduce the number of adults and youth held in restrictive housing, improve the conditions in restrictive housing units, and facilitate the return of segregated people to an institution’s general population. These reforms have come through agency-driven changes, by state legislation, and through legal settlements.²² For example, Washington State implemented an innovative step-down program as a pathway to get people out of long-term segregation; the Hampden County Correctional Center in Hampden County, Massachusetts developed alternative sanctions to increase the ability of staff to respond to behavior without relying on segregation; New York State passed a law to keep people with serious mental illness (SMI) from being placed in long-term segregation in its prisons; and California entered into a landmark settlement that ended indeterminate segregation.²³

Building upon the growing interest in segregation reform, the Vera Institute of Justice (Vera) developed the Segregation Reduction Project in 2010 to foster reform through collaborative partnerships with state and local jurisdictions. In 2015, Vera expanded this work with the Safe Alternatives to Segregation (SAS) Initiative. Through this initiative, Vera partnered with the New York City Department of Correction, the agency which operates New York City’s jails, to assess the Department’s segregation policies and practices, analyze outcomes of that use,

²⁰ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), General Assembly Resolution 70/175, U.N. Doc. A/Res/70/175 (2015). Two U.S. corrections officials, and members of Vera’s Safe Alternatives to Segregation Initiative Advisory Council, were involved in the drafting of the rules.

²¹ These international human rights norms regarding the use of solitary confinement have been further supported by the UN Committee Against Torture, the UN Special Rapporteur on Torture, and the UN General Assembly.

²² For an example of agency-led change, see Dan Pacholke and Sandy Felkey Mullins, *More than Emptying Beds: A Systems Approach to Segregation Reform* (Washington, DC: Bureau of Justice Assistance, 2016); Rick Raemisch and Kellie Wasco, *Open the Door: Segregation Reforms in Colorado* (Colorado Springs: Colorado Department of Corrections, 2015); and Barbara Pierce Parker and Michael Kane, *Reshaping Restrictive Housing at the South Dakota State Penitentiary* (Boston, MA: Crime and Justice Institute, December 2015). For examples of legislative reform, see New Jersey S 2003 (2015); New York Correction Law § 137 (6)(d)(i); Colorado SB 11-176 (2011), SB 14-064 (2014), and H1328 (2016); Nebraska LB 598 (2015); Connecticut SB 75 (2016); and Texas HB 1083 (2015). For legal settlements, see *Ashker v. Governor of California*, Settlement Agreement C 09-05796 CW (N.D. California, 2015); and *Peoples v. Annucci*, 2016 U.S. Dist. LEXIS 43556 (S.D.N.Y., Mar. 31, 2016).

²³ For more on Washington, see Pacholke and Felkey Mullins, *More than Emptying Beds*, 2016; for more on reform efforts at the Hampden County Correctional Center, see DOJ, *Report and Recommendations Concerning the Use of Restrictive Housing*, 77-78; for New York, see New York Correction Law § 137 (6)(d)(i); and for California, see *Peoples v. Annucci*. See *Peoples v. Annucci*, 2016 U.S. Dist. LEXIS 43556 (S.D.N.Y., Mar. 31, 2016).

and provide recommendations for safely reducing the use of segregation and enhancing the use of alternative strategies.²⁴

²⁴ The other jurisdictions working with Vera under this initiative are Nebraska, Oregon, North Carolina, and Middlesex County, NJ.

II. Vera’s assessment process

In partnership with the Department, Vera conducted an assessment of New York City’s use of segregation in its jail facilities. The assessment was conducted between April 2015 and September 2016.²⁵ The assessment included the following three main components: analysis of administrative data; review of department directives; and site visits to select facilities.

Vera’s analysis of segregation focused on the Department’s use of units and statuses where movement and out-of-cell activities are restricted—specifically the Department’s central punitive segregation unit (CPSU), punitive segregation II, restricted housing unit (RHU), enhanced restraint (ER) status, and enhanced supervision housing (ESH)—as well as on special populations (i.e., mental health populations) and racial and ethnic disparities in the application of restrictive housing. (See “Overview of the New York City Department of Correction,” on page 19, for definitions of these restrictive housing units.) Additionally, Vera does not offer findings or recommendations related to the Department’s use of punitive segregation or other forms of restrictive housing with regard to people under 18 years of age, because the Department eliminated the practice of housing this population in punitive segregation at the time of Vera’s assessment. Similarly, this report does not offer specific findings or recommendations related to the Department’s efforts to eliminate the housing of 18- to 21-year-olds in punitive segregation, as Vera’s Center on Youth Justice is working on a three-year collaborative evaluation with the Department to examine the best ways to study the implementation and impact of their young adult strategy. (See “Oversight and regulation,” on page 24 below, for more on the Department’s elimination of segregation for people under 21). That said, many of the recommendations Vera presents may apply to these populations as well.

Administrative data analysis: Vera requested and was provided with admissions and movement data for a 20-month period, from January 1, 2014 through August 31, 2015. Infraction data was received for a 24-month period, from January 1, 2014 through December 31, 2015. Additionally, Vera received mental health indicators from New York City Health + Hospitals (NYC Health + Hospitals). After cleaning and compiling the data, Vera researchers completed analyses of admissions and average daily populations in the various types of restrictive housing units operated by the Department over the entire 20-month period (January 1, 2014-August 31, 2015). Analyzing admissions and average daily population enabled the assessment team to understand how people move through the system over a period of time as

²⁵ The Department’s project team included James Walsh, deputy commissioner for adult programs and community partnership; Carleen McLaughlin, director of legislative affairs and special projects; Ana Billingsley, director of workforce development; and Anthony Lebron, captain of policy and procedures.

well as the makeup of the overall population in department custody on a given day. Several charts included in this report show trends of average populations by quarter for all of 2014 and the first three quarters of 2015. In these charts, the third quarter of 2015 only includes July and August, the last two months for which we received admissions data.

Addressing data limitations: While the data provided to Vera by the Department and NYC Health + Hospitals was informative and allowed us to reach the findings included in this report, some important information was not available, limiting Vera’s ability to answer some research questions on the use of restrictive housing.

For example, the data did not provide a connection between segregation sentences issued by the Adjudication Unit and time actually served in any type of punitive segregation. Where Vera reports on the connection between sentences issued and sentences served, the assessment team inferred an association between the data sets based on the timing of each (e.g., calculating the number of guilty infractions resulting in segregation sentences prior to a sentence being served, or counting the average number of days from sentences issued to sentences served to determine outcomes). Vera only concluded that a sentence served in punitive segregation was for a specific sentence issued when there was only one sentenced infraction preceding a stay in punitive segregation, and that infraction was reasonably close in time to the stay.²⁶

Vera received data indicating—yes or no—whether individuals had been diagnosed with serious mental illness (SMI), whether they had received mental health treatment in the form of medication or counseling, and whether they had been given an “M” designation (see “Mental health populations and the ‘M’ designation,” page 22). Other than these indicators, Vera had no other information on the mental health needs or vulnerabilities of the Department’s population. The assessment team also did not have information about when these statuses had been assigned to individuals during their incarceration, so our analysis counts individuals with any of these statuses as having the status throughout their stay. When an individual was assigned more than one indicator, we used only the most severe status so that individuals would not be counted multiple times. Vera ranked the SMI flag as the most severe, the “M” designation flag next, and the people who received treatment but did not have an “M” designation as least severe. For example, when the Vera team queried populations broken out by their mental health status, an individual who had SMI and an “M” designation was only counted in the SMI category.

The data provided to Vera had no information on departmental overrides to the limitations to segregation imposed by the Board of Correction (BOC) in 2015 (see “Oversight and

²⁶ Vera worked collaboratively with the Department to define what a “reasonably” close time frame between the issuance of a segregation sanction and movement into punitive segregation was. For the purposes of our analysis, this time frame was 14 days.

regulation,” page 24). We were, however, able to report on individuals who appeared to have been held in punitive segregation longer than the allowable limits by counting the total number of days they were in punitive segregation starting on their first day through the following six months. In cases where individuals exceeded the limits, we were unable to determine if the excess time was authorized by an override.

Finally, the data also did not show when individuals had been assigned enhanced restraint (ER) status (see “Restrictive housing,” page 19). The data did indicate some housing units were designated as ER housing, and the Vera team was able to determine when these units were opened and closed by the Department. Vera inferred that individuals in these housing units were on ER status. Vera was not able to identify anyone who may have been on ER status and not housed in an ER unit. It should also be noted that Vera was not able to determine from the data what level of restriction was used in these designated ER housing units. From Vera’s observations of three of these units, the team was able to determine some designated ER housing units were more restrictive than others, but the team did not observe all units designated as ER housing by the Department. For the purpose of our data analysis, Vera considers all ER housing units as a form of restrictive housing and encourages the Department to analyze these numbers further.

Policy review: The assessment team reviewed numerous department directives, including but not limited to policies regarding segregation practices, prohibited conduct and sanctions, alternative sanctions, due process procedures, and programs. In addition to relevant department directives, Vera also consulted the New York City Board of Correction (BOC) Minimum Standards and requests from the Department to deviate from those standards (known as “variance requests”), as well as H+H agency directives around medical and mental health services. (See “Mental health populations and the ‘M’ designation,” page 22. The BOC is an independent monitor to the Department, which enacts regulations known as Minimum Standards. See “Oversight and regulation,” page 24, for more information.) Some policies reviewed by Vera throughout the assessment period are not approved for public consumption; in those cases, Vera references the policies in general terms throughout the report.

Site visits: Vera’s assessment team conducted intensive site visits to see policies in action and learn about practices on the ground. The team visited seven jail facilities:²⁷

- George R. Vierno Center (GRVC);²⁸
- Otis Bantum Correctional Center (OBCC);
- Anna M. Kross Center (AMKC);
- Rose M. Singer Center (RMSC), a women’s facility;
- Manhattan Detention Center (MDC);
- West Facility; and
- Robert N. Davoren Center (RNDC).²⁹

At each facility, Vera completed a tour and conducted an informational meeting with the facility warden and leadership, correction officers, hearings officers, correctional counselors, other security personnel, mental health staff, and program staff. These meetings allowed the Vera team to learn how segregation is used at each facility and the range of services provided for segregated populations. Through these tours and meetings, the team also gained an understanding of disciplinary practices, decision points for segregation placement, how and when alternative sanctions are used, procedures for placement in administrative segregation, and practices for review and release from segregation to the general prison population or the community. The meetings also gave facility administrators and staff an opportunity to share their strengths and challenges in general, as well as those related specifically to the Department’s use of segregation.

The assessment team also observed disciplinary hearings and conducted focus groups with staff assigned to segregated housing and with incarcerated people, in order to better understand the experiences and perspectives of staff and incarcerated individuals who had spent time working and living in these units. The team was particularly interested in how the adults in custody viewed procedural fairness regarding segregation practices.

²⁷ All facilities visited, with the exception of Manhattan Detention Center, are located on Rikers Island.

²⁸ The assessment team visited GRVC twice, returning a second time to observe the Department’s central punitive segregation unit (CPSU), which had moved from OBCC to GRVC after the initial site visit.

²⁹ At the time of Vera’s site visit, RNDC housed adolescent (16- and 17-year-old) and adult males. Changes to the BOC Minimum Standards enacted in January 2015 required the Department to eliminate the use of punitive segregation for adolescents and young adults (18- to 21-year-olds). (See “Oversight and regulation,” page 24). Vera visited RNDC to observe alternatives to segregation, like the Transitional Restorative Unit (TRU) and the Second Chance Housing Unit (SCHU), developed by the Department in response to these rule changes.

III. Overview of the New York City Department of Correction

The Department oversees the care and custody of approximately 9,900 incarcerated people on an average day.³⁰ The Department operates 12 facilities, nine of which are located on Rikers Island—an island situated in the East River, off the shore of the boroughs of Queens and the Bronx. This report uses the facility names and housing units that were used at the time of the assessment.

Restrictive housing

In conducting its assessment, Vera adopted a broad definition of “restrictive housing” to include any housing unit which satisfies two conditions: (1) it holds incarcerated people separately from general population and (2) it places greater restrictions on out-of-cell time, congregate activity, and access to programming than in general population. In addition to its focus on restrictive housing, Vera’s assessment sought to understand the use of special housing and other statuses that function as a restrictive measure (e.g., enhanced restraint status). At the time of Vera’s assessment, the Department used the forms of restrictive housing described below.

Punitive segregation

Adults in custody who are under investigation for a rule violation (in “pre-hearing detention”) or who have an adjudication of guilt on a violation of the rules outlined in the Inmate Rule Book can be placed in punitive segregation. Rule violations fall into three categories: Grade I (most serious), Grade II (moderately serious), and Grade III (least serious). Grade I infractions are considered either violent (e.g., assault) or nonviolent (e.g., bribery).³¹ The Department operates three distinct types of punitive segregation units:

- *Central punitive segregation unit (CPSU)*. Also referred to as PSEG I, the Bing, or the Box. This is the most restrictive unit the Department employs for responding to disciplinary infractions. People in CPSU may be locked in their cell for up to 23 hours a

³⁰ The New York City jail population frequently fluctuates day-to-day, given the dynamics of housing a population of primarily unsentenced defendants who are awaiting the disposition of their criminal case; in addition to these pretrial populations, the Department is responsible for the custody of people who are sentenced to one year or less of incarceration. For the current average daily population, see NYC Criminal Justice, “Safely Reducing the New York City Jail Population,” <http://www.justice-data.nyc/safely-reducing-the-jail-population/>.

³¹ For more information regarding rule offenses, grades, and placement into punitive segregation, see Department Directive 6500R-D, “Inmate Disciplinary Due Process” Attachment – I.

day with one hour out of their cell for recreation. Vera observed CPSU at GRVC and RMSC.

- *Punitive segregation II (PSEG II)*: Also referred to as PSEG Lite, or Bing Lite. Punitive segregation II is used for people found guilty of nonviolent Grade I infractions and all Grade II infractions. People in PSEG II are locked in their cell for up to 17 hours a day, with seven hours out of their cell. Vera observed PSEG II at OBCC.
- *Restricted Housing Unit (RHU)*: A punitive segregation unit designed for some people with mental health needs (but not those diagnosed with a serious mental illness).³² The unit employs a level system that allows individuals to work their way from the most restrictive form of segregation (cell lock-in for 23 hours a day) to 20 hours of cell lock-in a day. Vera observed RHU at GRVC and RMSC.

Pursuant to Department directive, individuals found guilty of committing Grade II or nonviolent Grade I infractions shall serve their time in PSEG II. For Grade III infractions, punitive segregation is not used as a sanction.³³ When an individual is found guilty of any infraction, an adjudication captain issues a sanction. However, the Office of Security and Intelligence Unit (OSIU) makes decisions regarding placement into punitive segregation based on the security and custody management needs of the Department and informed by mental health staff. As a result, it is possible that individuals who have been issued a sanction of punitive segregation might not immediately be transferred to a segregation unit.

Enhanced supervision housing (ESH) units

Created in January 2015, ESH is a unit designed for people who have persistently been involved in violent incidents or are influential leaders in a security risk group (SRG), demonstrating a sustained threat to the safety and security of the jail.³⁴ ESH is intended to be program-intensive

³² In accordance with the Department's directive regarding individuals on punitive segregation status, as well as H+H policies, all people who have an "M" designation or who have been in custody for less than five days must be reviewed by a mental health provider prior to placement into pre-hearing detention or punitive segregation. The review is intended to determine if an individual can psychologically tolerate the conditions in CPSU; the patient is not required to be physically present during the review process, though a mental health provider may request an interview in order to reach a determination. If it is determined that an individual cannot psychologically tolerate CPSU and they are not diagnosed with a serious mental illness, they are placed in RHU.

³³ Department directive regarding individuals on punitive segregation status (on file with authors).

³⁴ The Department defines SRGs as "possessing common characteristics that distinguish the group from other inmates or groups of inmates as a discrete entity that jeopardizes the safety of the public, staff or other inmate(s) and/or the security and order of the facility." SRGs are designated by the Commissioner and informed by the Intelligence Unit's recommendations. Department directive regarding enhanced supervision housing (on file with authors).

and involves a level system. The first level allows people to have seven hours a day out of cell, and individuals can earn additional of out-of-cell time.³⁵ Vera observed ESH at OBCC.

Enhanced restraint (ER)

Typically considered a status rather than a housing assignment or unit, ER is designed to ensure that people who have committed violent acts (e.g., assault or attempted assaults on staff or other incarcerated people, substantial property damage that places any person at imminent risk of harm, etc.) are put in enhanced restraints during any movement off the housing unit to which they are assigned.³⁶ Although the Department emphasizes the designation of ER as a status and not a housing assignment or special unit, the assessment team noted that many people on ER status are housed together on a unit exclusively with other people on ER status. People on ER status are not necessarily housed in restrictive environments, but they may be. Of note, the only ER data indicator Vera had access to was a flag for ER housing units, not for individuals; therefore, Vera was only able to infer ER status if an individual was housed in an ER status housing unit. People who had an ER status who were housed in general population at the time of the assessment were not identifiable. Vera observed these types of units at GRVC, MDC, and West Facility.

Other relevant housing units and statuses

The Department operates a number of specialized housing units and custody statuses designed to address the needs of the population without resorting to restrictive measures. These specialized housing units and statuses are often used as an alternative to segregation, are not punitive in nature, and people are afforded 14 hours of out-of-cell time a day (in accordance with BOC Minimum Standards—see “Oversight and regulation,” page 24). With the exception of the Clinical Alternatives to Punitive Segregation (CAPS) unit, placement into these housing units or statuses is not determined by a finding of guilt for a rule violation.

³⁵ New York City Board of Correction (BOC), Notice of Adoption of Rules (New York: BOC, 2015), 1-2. The amended rules state the following: “The purpose of ESH is to house inmates posing the most direct security threats, a category that the rule limits to inmates who have: (1) been identified as leaders of gangs and have participated in dangerous gang-related activity; (2) organized or participated in gang-related assaults; (3) committed slashings or stabbings or who have committed repeated assaults, have seriously injured another, or have rioted or actively participated in inmate disturbances while in department custody or otherwise incarcerated; (4) been found in possession of scalpels or weapons that pose a level of danger similar to or greater than that of a scalpels while in department custody or otherwise incarcerated; (5) engaged in serious or persistent violence; or (6) while in department custody or otherwise incarcerated, engaged in repeated activity or behavior presenting great danger, and such activity or behavior has a direct, identifiable, and adverse impact on the safety and security of the facility.”

³⁶ Definition of ER per department policy.

- *Clinical Alternatives to Punitive Segregation (CAPS)*: In 2013, the Department developed CAPS, a specialized housing unit for people with SMI who have been found guilty of an infraction and issued a sanction to punitive segregation. Patients in CAPS receive in-patient levels of care, consisting of intensive therapeutic schedules that include group programming, one-on-one sessions with mental health providers, and art therapy.³⁷ By program design, people with an SMI who have committed a rule violation and are sentenced to punitive segregation time have that time suspended until they successfully complete the CAPS program, at which time the punitive segregation time is expunged. If the CAPS program is not successfully completed, the Department and a mental health provider work together to find a suitable alternate housing placement. Vera observed CAPS at AMKC and RMSC.
- *Program for Accelerated Clinical Effectiveness (PACE)*: The PACE program works with individuals diagnosed with SMIs who require an in-patient level of care but for whom CAPS is not an appropriate placement (because they have not been found guilty of committing a rule violation). The program design is based on the CAPS treatment model and is intended to encourage individuals to take prescribed medication through the provision of various incentives and rewards.³⁸ Vera observed PACE at GRVC, AMKC, and RMSC.
- *Mental observation (MO) units*: For incarcerated people who would benefit from closer contact with mental health providers, MO units are intended allow clinicians to provide higher levels of care than are available in the Department’s general population housing units. Most MO units offer outpatient-type care (e.g., talk-therapy).³⁹ Importantly, while everyone in MO units have an “M” designation, not everyone with an “M” designation is housed in an MO unit; people with “M” designations may be housed in the Department’s general population housing units. Vera observed MO units at AMKC, RNDC, and RMSC.⁴⁰
- *Protective custody (PC)*: People in the custody of the Department who have concerns for their own safety and require separation from specific people or groups of people may be placed in PC units. PC units operate with the same privileges and restrictions as general population (GP) units. Vera observed PC units at AMKC, OBCC, and MDC.

³⁷ Homer Venters, *Mental Illness in Correctional Settings*, Testimony before the New York State Assembly on Correction with the Committee on Mental Health (Albany, NY: Nov 13, 2014), 3.

³⁸ *Ibid.*, 4.

³⁹ *Ibid.*, 3.

⁴⁰ The MO unit observed by Vera at RNDC was for adolescents (16 and 17 years of age).

- *General population escort (GPE)*: Individuals who may be vulnerable but who are not, in the Department’s estimation, in immediate danger may be assigned to GPE status. An officer escorts people with GPE statuses any time they move out of their assigned housing area. The Department emphasizes the designation of GPE as a status and not a housing assignment or special unit, though the Department may house these people together on a unit exclusively with other people on GPE status. Vera observed these types of units at MDC and West Facility.

Mental health populations and the “M” designation

While most correctional agencies typically manage contracts with health care providers directly, New York City is unique in that two independent city agencies are responsible for the health and wellbeing of the people who are incarcerated in the city’s jails: the Department of Correction and New York City’s Health and Hospitals (H+H) agency which manages the administration of health care. This symbiotic relationship requires communication and some level of transparency between the two agencies (made complicated by competing privacy and security priorities).

As part of a settlement agreement stemming from *Brad H. et al. v. The City of New York et al.*, the Department, in partnership with New York City’s Department of Health and Mental Hygiene (DOHMH), established a method of demarcating individuals who, during one incarceration event, have had contact with the mental health care system.^a An “M” designation (also referred to as a “Brad H flag”) is assigned to people who require mental health treatment, those who have engaged with the mental health care system at least three times regardless of ongoing need for treatment, or those who are prescribed certain classes of medication (i.e., antipsychotics or mood stabilizers).^b It is important to note that an “M” designation does *not* indicate ongoing mental health needs or severity of diagnosis. “M” designations serve as the only mental health indicator available to the Department and function as a key tool in the placement of individuals in department housing.

^a See, Stipulation of settlement, *Brad H. et al. v. The City of New York et al.*, Index No. 117882/99 (Supreme Court of New York, Jan. 8, 2003).

^b Anne Siegler, “Question about ‘M’ class designation,” January 14, 2016, email communication (accessed September 7, 2016) and Elizabeth Ford, “Vera report on NYC’s use of segregation,” May 30, 2017, email communication (accessed May 30, 2017).

Facilities and units observed			
George R. Vierno Center (GRVC) <ul style="list-style-type: none"> ▪ CPSU ▪ RHU ▪ ER ▪ PACE 	Otis Bantum Correctional Center (OBCC) <ul style="list-style-type: none"> ▪ PSEG II ▪ ESH ▪ PC 	Anna M. Kross Center (AMKC) <ul style="list-style-type: none"> ▪ CAPS ▪ PACE ▪ MO ▪ PC 	
Rose M. Singer Center (RMSC) <ul style="list-style-type: none"> ▪ CPSU ▪ RHU ▪ CAPS ▪ PACE ▪ MO 	Manhattan Detention Center (MDC) <ul style="list-style-type: none"> ▪ ER ▪ PC ▪ GPE 	West Facility <ul style="list-style-type: none"> ▪ ER ▪ GPE 	Robert N. Davoren Center (RNDC) <ul style="list-style-type: none"> ▪ MO

Note: The assessment team also visited housing units, such as those in the general population, at each facility; they are not listed in this table as they were not the focus of Vera’s assessment.

Oversight and regulation

The New York City Department of Correction is regulated and monitored by a nine-member, non-judicial oversight board, the New York City Board of Correction (BOC). The BOC acts as an independent monitor, and serves to enact regulations—known as Minimum Standards—that support safe, fair, and humane corrections practices in New York City.⁴¹ The BOC functions to:

- ensure compliance with Minimum Standards;
- investigate any matter under the jurisdiction of the Department;
- review grievances;
- evaluate the performance of the Department; and
- make recommendations around correctional planning.⁴²

⁴¹ In addition to correctional Minimum Standards, the BOC create and monitor Mental Health Minimum Standards, Health Care Minimum Standards, and standards relating to the elimination of sexual abuse and sexual harassment in correctional facilities.

⁴² New York City Board of Correction, “About,” <http://www1.nyc.gov/site/boc/about/about.page>.

The BOC Minimum Standards regulate the treatment of all people in the Department's custody, including standards regarding non-discriminatory treatment, classification of incarcerated people, access to courts and legal services, and visitation, among other things. A number of Minimum Standards relate to the Department's disciplinary procedures and approaches to custodial care. Most notably, on January 13, 2015, the BOC approved multiple amendments to the Minimum Standards that required dramatic changes to the Department's use of punitive segregation.⁴³ Below are the standards that are most relevant to this assessment:

- *Lock-in:* Individuals may not be involuntarily locked in their cell for more than eight hours at night, and two hours during the day (for cell count). This standard mandates that individuals *must* have at least 14 hours out of their cell in a 24-hour period. The only exception to this standard is made for people who are in punitive segregation, ESH, or medical isolation.⁴⁴
- *Recreation:* All people in Department custody must be afforded at least one hour of out-of-cell recreation time, in either an indoor or outdoor designated recreation area.⁴⁵
- *Required out-of-cell time in punitive segregation:* In addition to the Minimum Standards regarding recreation, all people found guilty of nonviolent Grade I infractions and all Grade II infractions must be afforded at least seven hours out of their cell per day.⁴⁶
- *Exclusions from punitive segregation:* The BOC has determined the Department may not use punitive segregation for people under the age of 18, young adults (ages 18 to 21), and people with serious mental or physical disabilities or conditions.⁴⁷
- *Time limitations on punitive segregation:* With the exception of a serious assault on staff, nobody may be given a punitive segregation sanction of more than 30 days. Furthermore, with few exceptions, no person may be held in punitive segregation for more than 30 consecutive days. If someone has remaining time to serve after 30 days, they must be released from punitive segregation for at least seven days before returning to punitive segregation. In addition, nobody may be held in punitive segregation for more than a total of 60 days within a six-month period. The Department's chief of department may approve exceptions to these time limitations in writing to the BOC, in cases where there has been a demonstrated persistence of serious acts of violence (the

⁴³ New York City Board of Correction, *Notice of Adoption of Rules* (New York: BOC, 2015).

⁴⁴ Rules for the City of New York Board of Correction (40 RCNY) § 1-05.

⁴⁵ Rules for the City of New York Board of Correction (40 RCNY) § 1-06.

⁴⁶ Rules for the City of New York Board of Correction (40 RCNY) § 1-17.

⁴⁷ *Ibid.*

exceptions are referred to as “departmental overrides”). These time limitations are referred to as the “30- or 60-day limit” throughout this report.⁴⁸

- *Punitive segregation and previous incarcerations*: People shall not serve time in punitive segregation for infractions that occurred during a prior incarceration.⁴⁹

Commitment to reform

Reforms to the Department’s segregation practices have been underway for a number of years. As reported by the Department to the BOC, between July 2011 (when reforms began) and April 2014, the Department’s use of punitive segregation was reduced by 31 percent, from a population of 1,035 individuals to 719.⁵⁰ The Department reports further reductions have been achieved since 2014; as of June 2016, there were approximately 160 people in any form of punitive segregation.⁵¹ The most recent numbers from the Department indicate it has achieved an almost 90 percent reduction from its peak use of punitive segregation in the last several years, with only 123 individuals in any form of punitive segregation as of May 5, 2017, down from the 2012 population of 1,035.⁵² The Department attributes these reductions to the implementation of sentencing guidelines for adjudication captains, expunging historical time owed, allowing for penalties to be served concurrently rather than consecutively, and conditional discharge from punitive segregation for positive behavior. The Department reports that these changes have resulted in both decreases in segregation sentence lengths and the number of people entering into punitive segregation: since August 2013, the average punitive segregation sentence decreased by 41 percent, from 22 to 13 days, and between 2013 and April 2014 nearly 2,700 files with historical time owed were expunged.⁵³

These reform efforts were further bolstered by Mayor Bill de Blasio’s appointment of Joseph Ponte as commissioner in 2014, and by changes to the BOC Minimum Standards in 2015. Commissioner Ponte brought to the Department a record of reform, having previously reduced

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ New York City Department of Correction, *May Report to BOC* (New York: NYC DOC, 2016).

⁵¹ New York City Department of Correction, *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* (New York: NYC DOC, June 1, 2016).

⁵² Joseph Ponte, Statement before the New York City Council Committee on Fire and Criminal Justice Services and Committee on Finance (New York, May 8, 2017), 7; Carleen McLaughlin, director of legislative affairs and special projects, NYC Department of Corrections, “City Council Testimony,” May 12, 2017, e-mail communication; Carleen McLaughlin, June 13, 2017, e-mail communication.

⁵³ New York City Department of Correction, *May Report to BOC*, 2016. The expungement of the 2,698 files resulted in 160,079 punitive segregation days that had not yet been served being purged from the backlog.

the segregation population in Maine as the commissioner of their state prison system.⁵⁴ In December 2014, the Department reports, it eliminated the use of punitive segregation for 16- and 17-year-olds, and it continues to transition away from using restrictive measures with young adults (18- to 21-year-olds). Progress towards reducing the use of restrictive units highlights a number of positive outcomes: the development and deployment of alternative behavioral management techniques and reported declines in infractions among adolescents (16- to 17-year-olds years). With New York City's demonstrated commitment to reform, the assessment team is hopeful that the findings and recommendations outlined in this report will help the Department further reduce its use of restrictive housing.

⁵⁴ For information regarding Joseph Ponte's record of reform in Maine, see Jason M. Breslow, "Joseph Ponte: In Maine, 'We Rewrote the Segregation Policy,'" *Public Broadcasting Service*, April 22, 2014; Michael Winerip, "De Blasio Setting Up a Test: Prison Reformer vs. Rikers Island," *New York Times*, April 4, 2014; and David Hench, "Maine corrections chief Joseph Ponte to head NYC jails," *Portland Press Herald*, March 11, 2014.

IV. Findings and recommendations

Below, Vera presents detailed findings and recommendations based on our assessment of the Department's use of segregation. The first four sections focus on the overall use of restrictive housing, punitive segregation, mental health populations, and ESH, respectively. The next two sections address other forms of restrictive housing and racial and ethnic disparities as they relate to the Department's use of restrictive housing. The final section provides system-wide findings and recommendations.

A. Overall use of restrictive housing

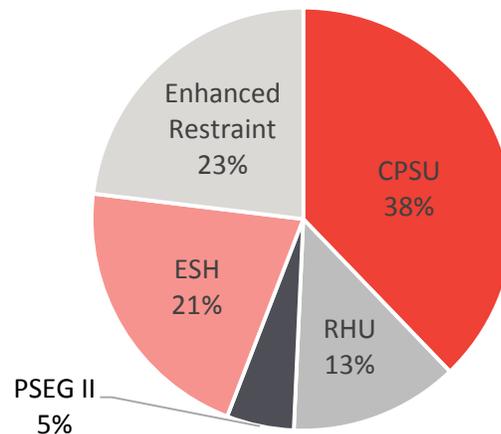
Findings

Finding A1: Over the course of the third quarter of 2015, 281 men—just over 3 percent of the Department's overall population—were in some form of restrictive housing on any given day.⁵⁵ Over

one-third of the men in restrictive housing were in CPSU, nearly one-fourth percent were in an ER unit, and nearly one-fifth were in ESH. (See Figure 1.)

Notably, there were—on average—fewer than nine women in CPSU and RHU on any given day during this time frame.⁵⁶ Additionally, women assigned to these units are housed in one unit and receive seven hours of out-of-cell time and programming. Comparatively, in August 2015, there were an average of 168 men in punitive segregation on any given day. Due to the extremely low numbers of

Figure 1: Restrictive housing breakdown for men, July - August, 2015



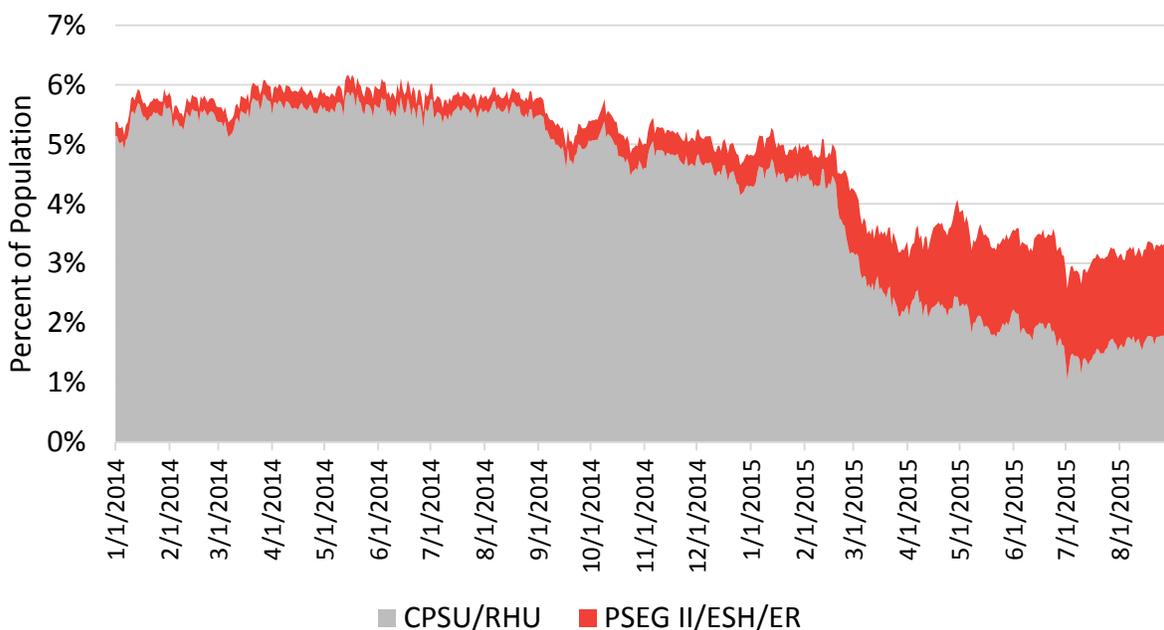
⁵⁵ This number includes individuals in CPSU, RHU, PSEG II, ESH, and ER, as shown in Figure 1. It does not include women. The total number of people in restrictive housing can be further broken down: approximately 1.7 percent of the total population in department custody were in some form of punitive segregation, and approximately 1.4 percent were in some other form of restrictive housing (i.e., enhanced supervision housing or enhanced restraint status). For the purpose of our data analysis, Vera considers all ER housing units as a form of restrictive housing. Vera encourages the Department to analyze these numbers further.

⁵⁶ In the third quarter of 2015, the average daily population of women in department custody was 710.

women in segregation over the course of Vera’s assessment, the data analysis excludes women so as not to misrepresent the overall impact of restrictive housing on people in the Department’s custody.

Finding A2: The Department has decreased its use of CPSU and RHU; over the same time frame, it has increased its use of PSEG II, ESH, and ER. The result has been an overall reduction of restrictive housing.⁵⁷ Figure 2, below, shows that as the Department implemented the BOC amended rules restricting the use of CPSU and RHU, the use of those housing units declined sharply, from a peak of 5.9 percent in May of 2014 to 1.6 percent at the end of the third quarter of 2015. In Figure 2, the red shaded area shows the growth in the Department’s use of PSEG II, ESH, and ER.

Figure 2: Trends in restrictive housing, Jan. 1, 2014 - Aug. 31, 2015

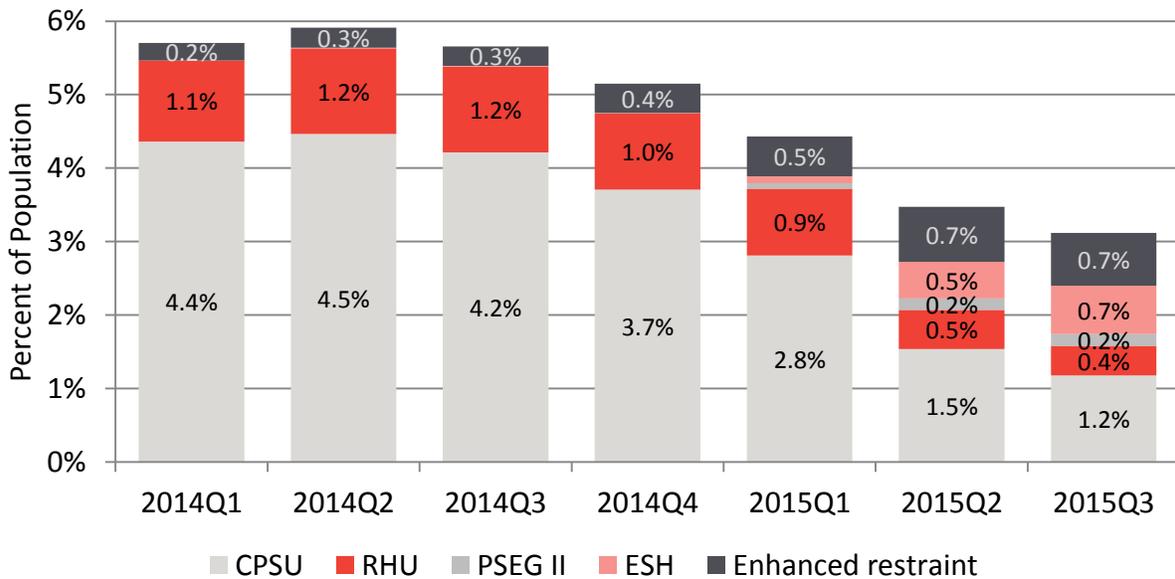


To further demonstrate this growth, Figure 3, below, indicates that between the first and third quarters of 2015, the Department increased its use of ER by 0.2 percent of the population, of

⁵⁷ PSEG II and ESH were developed by the Department in response to the BOC rule changes and have only been in operation since the beginning of 2015. ER had been used by the Department for a number of years prior to the BOC rule changes.

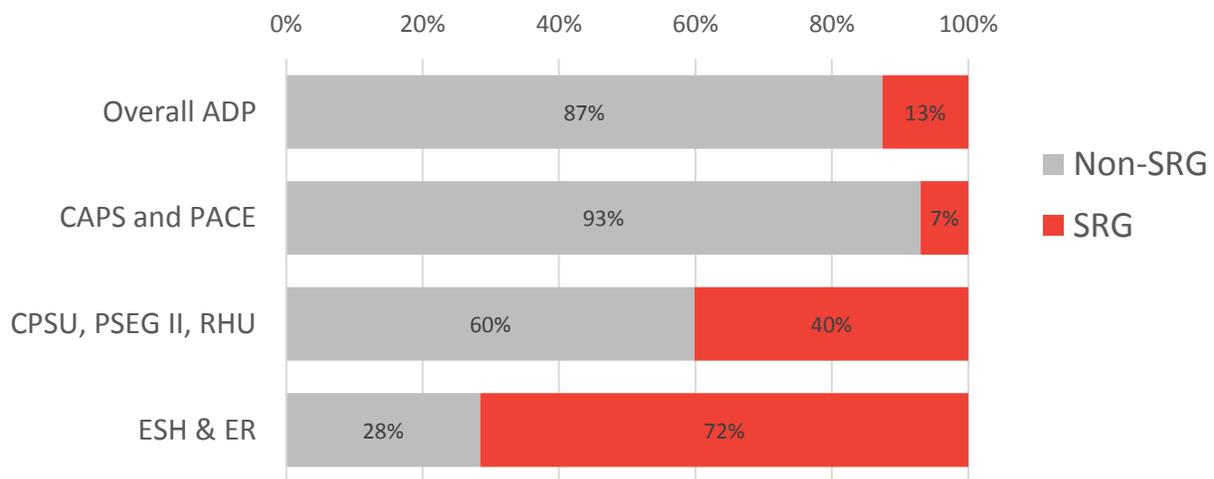
ESH by 0.6 percent, and of PSEG II by 0.1 percent. In other words, after the adoption of the BOC rules changing the administration of punitive segregation in the beginning of 2015, ER grew to an average of 65 people per day, ESH to 59 people per day, and PSEG II to 14 people per day. The growth of these units resulted in a more gradual rate of decline in the overall use of restrictive housing, from a peak of 6.1 percent of the total population to 3.2 percent in the third quarter of 2015.

Figure 3: Restrictive housing trends by type, 2014 - 2015



Finding A3: People designated by the Department as involved in an SRG are more likely to come into contact with restrictive housing than people who are not involved in an SRG. SRGs are a small portion of the total population, yet are a large portion of the population in restrictive settings. As noted in Figure 4, below, people who are deemed to be a member of an SRG make up only 13 percent of the overall jail population on an average day, but account for 40 percent of the admissions into CPSU, PSEG II, and RHU and 72 percent of the admissions into ESH and ER. This signifies a need to target strategies to this segment of the Department’s population (for example, see Recommendation B13, page 53).

Figure 4: SRG admissions into special housing, January - August, 2015



Finding A4: There is limited planning or programming support structure for individuals moving from restrictive housing to general population. The assessment team noted that the Department offers minimal reintegration support services to individuals as they return to general population from punitive segregation or other types of restrictive settings. Some efforts to support special populations in the transition from restrictive settings to general population, such as the transfer notification form (TNF) that outlines required levels of care for individuals leaving RHU, as well as various behavior modification programs that are provided to individuals in ESH, were reported by the Department. While Vera encourages these practices, reintegration supports ideally offer a broader set of practices rooted in the belief that people are

fundamentally able to succeed with the right structures and networks of supports in place. See Recommendation B11, page 51, for specific strategies around reintegration.

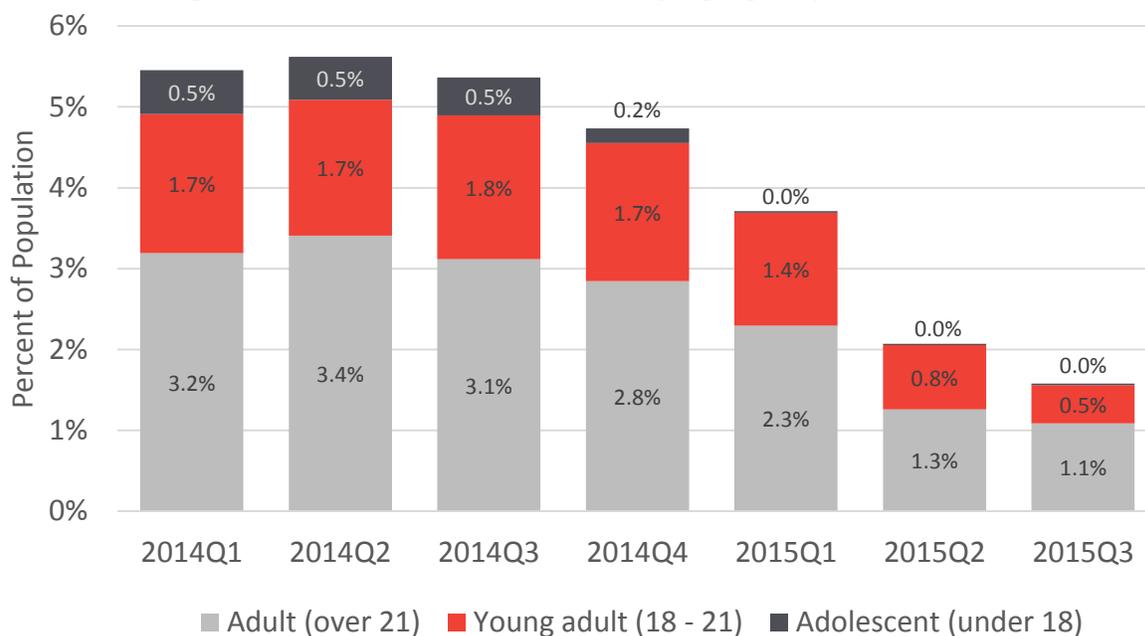
B. Punitive segregation

Findings related to punitive segregation are based on an analysis of segregation sanctions issued by the Department's Adjudication Unit, as well as an analysis of the people who physically spent time in those units.

Findings

Finding B1: The Department has most significantly reduced CPSU and RHU populations by limiting the number of adults sent to these units. Although people under the age of 18 were no longer sent to punitive segregation beginning in December 2014, the elimination of that population from punitive segregation only accounted for a small part of the overall reduction. As shown in Figure 5, below, prior to 2015, only 0.5 percent of the overall department population were individuals under the age of 18 in punitive segregation. Although this population was reduced to nearly zero by the third quarter of 2015, the number of young adults (18- to 21-year-olds) and adults in CPSU and RHU declined from 5.1 percent of the overall population to just 1.6 percent—a much more substantial reduction.⁵⁸

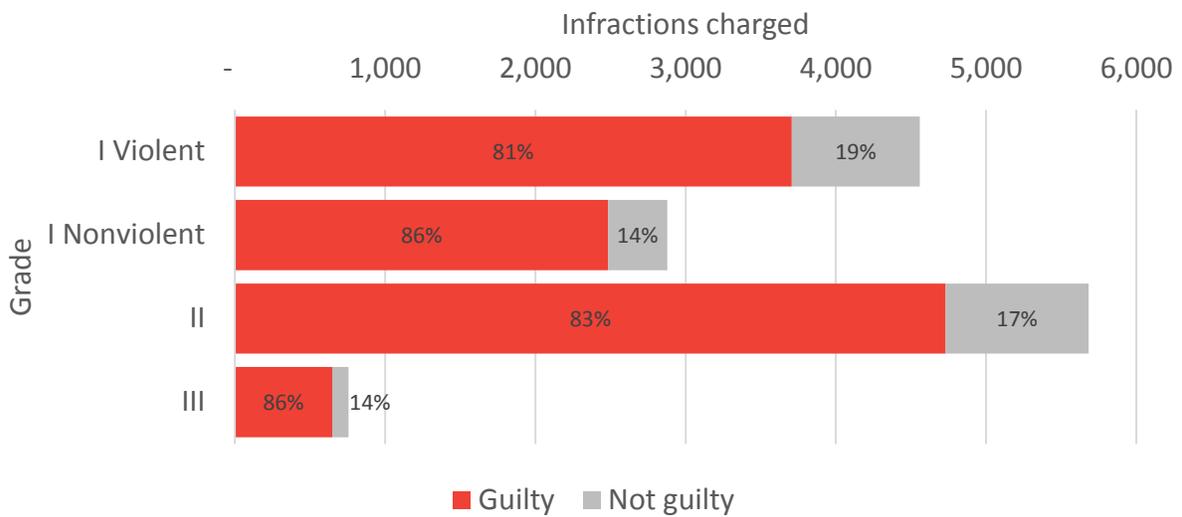
Figure 5: CPSU and RHU trends by age group, 2014 - 2015



⁵⁸ The Department reports that the number of young adults (18- to 21-year-olds) in CPSU and RHU has been reduced to zero. People who are 18 were no longer in CPSU or RHU beginning in June 2016, and individuals aged 19 through 21 were no longer in CPSU or RHU beginning in October 2016.

Finding B2: The likelihood of having contact with punitive segregation at least once increases with longer stays in jail. Vera’s analysis showed that for people who had been in the jail for one month, three percent had come into contact with some form of punitive segregation at least once during their stay. That likelihood increases over time; for people who had been in custody for six months, 20 percent had been in punitive segregation at least once; for individuals who had been in the jail for 12 months, the number rose to 36 percent.

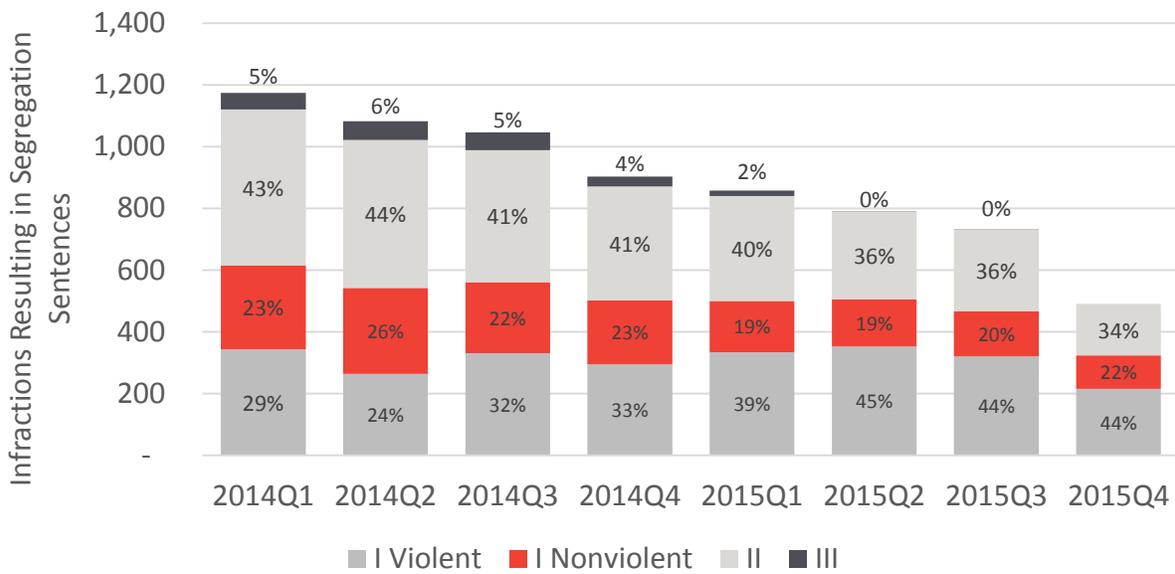
Figure 6: Infractions by grade and disposition for top charge, 2015



Finding B3: Most charges heard by the Adjudication Unit result in a finding of guilt. Vera’s analysis shows that in 2015, at each infraction grade level, more than 80 percent of those charged with an infraction were found guilty. Figure 6 below shows the disposition outcome for all infractions in 2015, by top charge.

Finding B4: Segregation sanctions are issued for people found guilty of nonviolent and lower level infractions with some frequency. Overall, the number of infractions resulting in a sanction of punitive segregation decreased over the 24-month period for which Vera received infraction data (see Figure 7, below), yet just over half (56 percent) of sanctions to segregation issued in the fourth quarter of 2015 were for Grade II or nonviolent Grade I infractions.

Figure 7: Segregation sanction trends by grade of top charge



Note: The percentages displayed in each bar may not add up exactly to 100 due to rounding.

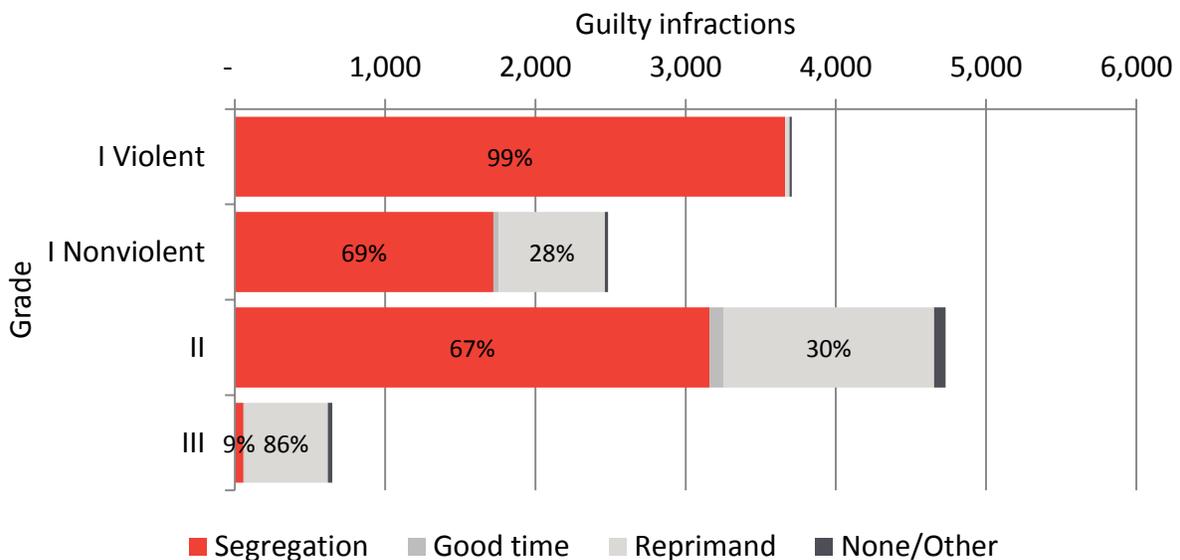
Despite these overall declines, punitive segregation is still seen as an appropriate sanction for Grade II and nonviolent Grade I infractions. Figure 8, below, shows the top 10 rule violations resulting in an issuance of a segregation sanction. “Fighting/physical struggle with another inmate, not resulting in injury” (Grade II) was the primary charge that resulted in an adjudication captain issuing a segregation sanction. Of the top 10 charges that led to a sanction of segregation, four of the charges were Grade I violent, three were Grade I nonviolent, and three were Grade II infractions (see Figure 8, below).

Figure 8: Top 10 Charges (Grade) Resulting in Segregation Sanctions, 2015



Finding B5: In response to negative behavior, the Department has few sanction options to utilize aside from punitive segregation. Currently, the only sanctions the Department can issue for infractions are punitive segregation, loss of good time, a \$25 fine (automatically applied to all guilty findings), and a verbal reprimand.⁵⁹ Figure 9 shows that the Adjudication Unit mostly uses two sanctions: punitive segregation and reprimands. Furthermore, of all the nonviolent Grade I and II infractions found guilty by the Adjudication Unit, 67 percent resulted in the issuance of a segregation sanction.

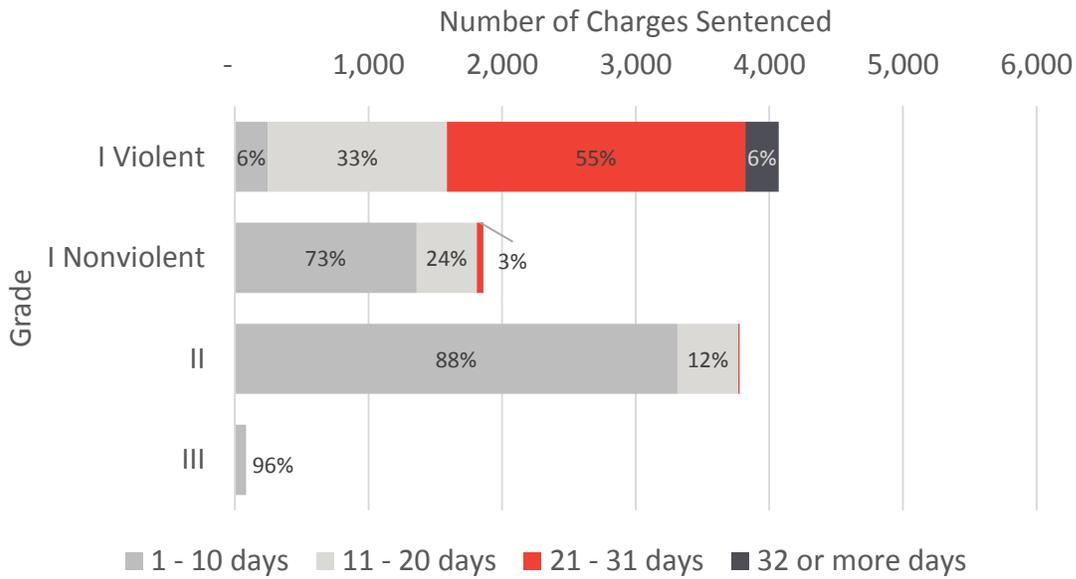
Figure 9: Sanctions by grade for top charge, 2015



⁵⁹ Loss of good time is a sanction that can only be applied to the city-sentenced population, which according to the Mayor’s Office of Criminal Justice is less than 15 percent of the Department’s total population. For more information regarding the current proportion of city-sentenced individuals in the Department’s custody, see NYC Criminal Justice, “Safely Reducing the New York City Jail Population,” <http://www.justice-data.nyc/safely-reducing-the-jail-population>.

Finding B6: Lengths of sentences to punitive segregation correspond to the severity of the top charge. According to Vera’s data analysis, in 2015, 61 percent of Grade I violent infractions received sentences from the Adjudication Unit of 21 days or more. As Figure 10 shows, in comparison, 88 percent of Grade II infractions received sentences of 10 days or fewer.

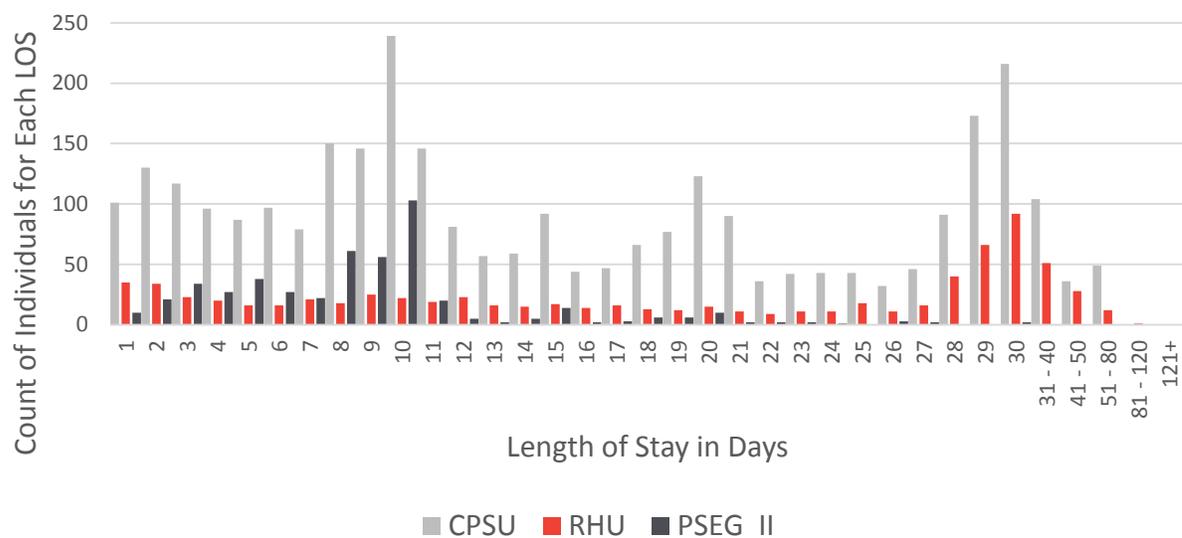
Figure 10: Lengths of issued segregation sanctions, 2015



Analyzing all admissions into punitive segregation in 2015, Vera found actual time served in punitive segregation also matched the severity of the top charge. Figure 11 represents the number of people released from CPSU, RHU, and PSEG II after a specific number of days.

- a. Actual time served in CPSU peaks at around 10 and 30 days.
- b. Actual time served in RHU peaks at around 30 days, indicating many people stay for the maximum allowed time.
- c. Actual time served in PSEG II peaks at around 10 days.

Figure 11: Length of Stay in Punitive Segregation



Finding B7: Despite the BOC Minimum Standards, some people spend substantial segments of their incarceration in punitive segregation. According to BOC regulations, people cannot spend more than 60 days cumulatively in punitive segregation within a six month period (see “Oversight and regulation,” page 24). Vera’s data analysis revealed instances where individuals had been in punitive segregation for longer than the BOC limits, though it was not possible to determine if the Department had requested overrides for those people. Thirty-three people served between 61 and 65 cumulative days in punitive segregation in the six months following their first admission, 43 people served between 66 and 80 cumulative days, and 29 people served 81 or more cumulative days.

Finding B8: Some people found guilty of nonviolent infractions serve their time in CPSU.⁶⁰ Despite department policy prohibiting CPSU for all classes of offenses with the exception of Grade I Violent rule offenses, Vera identified 50 individuals who spent time in CPSU in 2015, despite never having been accused of or found guilty of a violent infraction during their jail stay.⁶¹

Finding B9: A small proportion of incarcerated people account for a large number of bed-days in punitive segregation units.⁶² Figure 12 shows that in the first eight months of 2015, only 8 percent of the people who ever went to punitive segregation went three or more times, yet those individuals account for 21 percent of the total punitive segregation bed-days.⁶³ Many of these individuals were found guilty of fighting or assault infractions.

Figure 12: Stays in punitive segregation, January - August 2015

Stays	Individuals		Punitive segregation bed-days	
	Number	Percent	Number	Percent
1	973	74%	13,440	52%
2	231	18%	6,862	27%
3+	106	8%	5,415	21%

Finding B10: PSEG II is underutilized. Vera’s analysis found that PSEG II typically operates under capacity, even when there is a waitlist. As of July 2016, there were only 14 people

⁶⁰ Data limitations made it difficult for Vera to determine, with precision, the scope of this finding; infraction files and movement files are distinct data files and it was often not possible to clearly deduce when an infraction led to a specific stay in CPSU. In order to examine this issue, Vera developed, with input from the Department, conditions to identify cases for which the assessment team could determine unambiguously that individuals who had not committed a violent infraction had visited CPSU. Given these data limitations, it is possible more people were impacted by this finding.

⁶¹ Vera examined the 1,239 admissions into CPSU between January 1, 2015 through August 31, 2015 for people who also began their jail stay in 2015. Vera only analyzed the data between January and August 2015, because the data from 2014 did not reflect reforms made to the use of punitive segregation and doing so would have inaccurately reflected current practice.

⁶² Bed-days are frequently used in corrections to measure the total usage of beds by a certain population. It is calculated by multiplying the number of admissions by the average length of stay. Importantly, it does not correspond to unique individuals, but rather reflects the number of admissions and discharges into and out of the prison, jail, or unit.

⁶³ Vera only analyzed the data between January and August 2015, because the data from 2014 did not reflect reforms made to the use of punitive segregation and doing so would have inaccurately reflected current practice. Given the limited analysis, it is possible that over time more individuals from this cohort would have returned to punitive segregation.

in the unit, despite the unit's capacity of 50.⁶⁴ The Office of Security and Intelligence Unit (OSIU) cited security concerns about housing some individuals together in PSEG II, often because of their SRG status. As a result, OSIU sometimes delays the transfer of people into PSEG II, indicating PSEG II often does not serve as a viable sanctioning option for the Department.

Finding B11: There are backlogs and other delays at key points in the disciplinary process. Vera analyzed 9,793 infractions committed in 2015 that resulted in a segregation sanction, and discovered that by the end of 2015, nearly half of those cases had not resulted in an admission into punitive segregation.⁶⁵ Focus groups conducted by Vera revealed that incarcerated people and officers did not understand why some people were placed into segregation and others were not, resulting in a system that appeared arbitrary. Furthermore, Vera found that in 2015, for those who were eventually admitted to segregation, the average length of time between the issuance of a segregation sanction and admission into punitive segregation was 13 days; one-third of the admissions into punitive segregation came after two or more infractions had been adjudicated guilty. Delays between adjudication and placement into segregation impact transparency and perceptions of fairness and legitimacy. These same focus groups suggested that these delays negatively impact trust in the system overall.

Vera identified a number of reasons people were not placed into segregation, or were placed there after a delay:

- Discussions with OSIU revealed the unit relies on multiple pieces of information when making decisions regarding placement into punitive segregation. In addition to the infraction for which someone has been adjudicated, OSIU takes into consideration an individual's SRG status, institutional record of behavior, current population and availability of beds in punitive segregation units, whether someone can continue to be safely housed in their current non-restrictive housing unit, and other factors. Decisions regarding punitive segregation placement are not communicated to adjudication captains or the various involved parties.
- There is minimal information-sharing between OSIU and department-wide data systems, which keeps OSIU decision-making siloed from other decision makers.⁶⁶

⁶⁴ OSIU staff, NYC Department of Corrections, conversation with the authors, New York City, July 5, 2016.

⁶⁵ It is possible that, over time, more individuals from this cohort would have been admitted into punitive segregation.

⁶⁶ OSIU tracks information regarding individuals waiting for a mental health review, as well as 30- and 60-day time limits, among other information. This information is not recorded in the Department's Inmate Information System (IIS).

- There is a waitlist for placement into CPSU, PSEG II, and RHU. As of July 2016, the Department reported that there were 100 people on a waitlist for CPSU and PSEG II, and three-quarters of them had only a nonviolent infraction. Despite the Department’s minimal use of PSEG II, only 14 individuals on the waitlist had been found guilty of Grade I violent infractions; three-quarters of the people on the waitlist were waiting to serve a sanction for nonviolent offenses. (See Finding B10, page 40, for more information regarding the Department’s use of PSEG II).⁶⁷
- There is a backlog of people with “M” designations who need to be reviewed by a mental health professional prior to placement into punitive segregation. As of July 2016, there were 570 people on this waiting list.⁶⁸ In accordance with department and H+H policy directives, all people who have an “M” designation (or who have been in custody for less than five days) must be reviewed by a mental health provider prior to placement into punitive segregation. The review is intended to determine if an individual can psychologically tolerate the conditions in CPSU.⁶⁹ Vera learned from OSIU staff that after the mental health review process is complete, the Department must move that person into RHU within seven days; otherwise, the review must be conducted again.⁷⁰ To avoid duplicating reviews, the Department will only refer someone for a mental health review if there is a bed available for that person in RHU; thus backlogs in RHU contribute to delays in the mental health review process.
- The Department reports that the 30- and 60-day limits contribute to backlogs, especially in PSEG II. When an individual has hit either their 30- or 60-day limit, is in general population, and commits an infraction that does not warrant a departmental override, the Department cannot place that individual in a restrictive setting until they clear the 30- or 60-day limit. Generally, any nonviolent infraction does not warrant a departmental override, and nonviolent and Grade II infractions are only eligible for PSEG II, though it is possible the 30- and 60- day limits impact more than PSEG II backlogs if the chief of department does not approve a departmental override for a violent Grade I infraction. In these cases, the Department places individuals on waitlists.

⁶⁷ OSIU staff, NYC Department of Correction, conversation with the authors, New York City, July 5, 2016.

⁶⁸ *Ibid.*

⁶⁹ Patients are not required to be physically present during the review process, though a mental health provider may request an interview in order to reach a determination.

⁷⁰ OSIU staff, NYC Department of Correction, conversation with the authors, New York City, July 5, 2016.

Finding B12: People who work for the Department and NYC Health + Hospitals, as well as adults who are in custody, find the disciplinary process difficult to understand. Vera’s review of department policy as well as discussions with OSIU and the Adjudication Unit revealed a number of factors that may contribute to misunderstandings of the disciplinary process:

- Multiple department directives and other official documents that describe due process procedures and sanctioning options, such as the Inmate Handbook and the Inmate Rule Book, are not consistent with one another and may have contradictory language
- There is a lack of clear communication between the Adjudication Unit and the various parties involved in an incident regarding outcomes of the disciplinary process.

Finding B13: OSIU procedures and practices are not formalized, even when these practices offer opportunities to encourage positive behavior. As described in Finding B11, OSIU employs a number of informal practices that are not memorialized in department policy, are not communicated to adults in custody, and are not understood by department staff. For example, it was frequently noted by department staff that the Department will leave individuals who have reached their 30- or 60- day limit in general population for longer than their mandatory reprieve from segregation—if they are infraction free—in order to have an immediate sanctioning option should behavior change. With proper communication and a standardized application of this process, this informal practice could incentivize positive behavior; however, current practice is unlikely to serve this purpose.

Finding B14: There are few opportunities for congregate activity and structured programming in punitive segregation. Opportunities for meaningful interactions with other people are extremely limited; for example, recreation is only offered for one hour a day in individual recreation areas, and most other interactions happen through the cell door. The deprivation of regular social interaction can create lasting negative impacts on incarcerated people; however, there is no evidence that this level of restriction makes prisons and jails any safer for those incarcerated or for the people who work in them.⁷¹ Programming can foster healthy interaction among incarcerated people, and safely increase congregation. It may also target problematic behavior and mitigate any challenges people may have in the transition between general population housing units and more restrictive settings. Of note, the

⁷¹ Natasha Frost and Carlos E. Monteiro, “Administrative Segregation in U.S. Prisons” (Washington, DC: U.S. Department of Justice, National Institute of Justice, March 2016, NCJ 249749R.M), citing Ryan Labrecque, “The Effect of Solitary Confinement on Institutional Misconduct: A Longitudinal Evaluation” (PhD diss., University of Cincinnati, 2015).

Department reports they are currently working on increasing programming for all people in their custody.

- a. There is no programming or access to congregate activity in CPSU.** At the time of the assessment, the Vera team was not made aware of any structured programming or opportunities for congregate activity offered to people housed in CPSU.
- b. Access to programming and congregate activities in RHU is limited for people who first enter the unit.** Individuals enter RHU at Level Zero, which operates with the same restrictions as CPSU. As people move through the level system, they progressively have more access to programming and congregate activities.
- c. There is no programming in PSEG II.** While PSEG II allows for significantly more out-of-cell time, and therefore more comingling with peers, the Vera team was not made aware of any programming activities provided during this out-of-cell time.

Finding B15: Access to mental health care in CPSU is minimal. As previously stated, the restrictive conditions commonly found in segregation units may negatively impact the emotional wellbeing of people housed there. However, mental health providers visit CPSU, the most restrictive form of segregation the Department operates, once a day and by request, though staff on the units reported that daily rounds aren't consistently delivered. This level of mental health care is significantly less than that available to individuals who are particularly vulnerable to declines in their mental health and are housed in other, more holistic, units (e.g., RHU, CAPS, and PACE).

Finding B16: The Department is hampered in its ability to restrict privileges as a sanctioning option because it does not provide many privileges beyond those outlined in BOC Minimum Standards. As mentioned in Finding B5, the Department only has four sanctioning options at its disposal and is most likely to employ the most restrictive measures as a response to violations. Many jurisdictions use other tools to respond to negative behavior—both on the housing unit directly and during the formal disciplinary hearing process—including limiting privileges (for example, temporarily restricting access to commissary, a brief cell lock-in, or loss of recreation). By failing to provide privileges beyond the BOC Minimum Standards (as currently written), the Department lacks the ability to respond to infractions through the use of case-based, short-term restrictions to privileges.

Recommendations

Recommendation B1: Eliminate the use of punitive segregation for all Grade II and nonviolent Grade I infractions and use alternative sanctions. Reserving CPSU, RHU, and PSEG II for only the most serious, violent infractions will free up department resources and is likely to alleviate backlogs in CPSU, RHU, and PSEG II. See Recommendation B2, page 45, for strategies the Department can take to develop alternative sanctioning responses for individuals found guilty of Grade I nonviolent, Grade II, and Grade III infractions.

Recommendation B2: Develop a structure of alternative sanctions and informal responses. Since the 1970s, a well-documented body of criminal justice research has extolled the deterrent benefits of “swift, certain, and fair” punishment over more delayed and severe punishments.⁷² Most of this research has focused on community corrections (mainly probation and parole), but its principles of behavioral modification have been successfully applied to institutional corrections. To increase the response options available to the Department’s Adjudication Unit, as well as to empower officers to respond to behavior swiftly, directly, and proportionately to the severity of the infraction, Vera recommends the following:

- a. Enhance privileges in general population.** By increasing privileges beyond BOC Minimum Standards for all populations, the Department will be able to respond to behavior by limiting these privileges. The mechanism for limiting privileges may be through a formal sanction issued by the Adjudication Unit, or might be applied immediately at the discretion of the officer on the unit—either option (or a combination of both) will allow the Department to respond to behavior without resorting to the most restrictive measure available, which is punitive segregation. In addition to enhancing privileges, Vera urges the Department to develop guidelines for officers that describe how to restrict privileges in an appropriate manner. To ensure fidelity to the guidelines,

⁷² Briefly, the swift, certain, and fair model hinges on the idea that behavioral expectations and sanctions for breaking the rules are communicated to the target group, which for the Department would be adults in custody. This communication creates a type of social contract, which enhances the perceived fairness of any sanctions imposed for breaking the contract. If, after learning the rules and consequences for breaking them, an individual violates a rule, proportionate sanctions are delivered immediately (swift) and consistently (certain). See Swift Certain & Fair, “Why Swift Certain & Fair,” <http://www.swiftcertainfair.com/why-swift-certain-and-fair/>. For more on the deterrent benefits of swift, certain, and fair, see Valerie Wright, *Deterrence in Criminal Justice: Evaluating Certainty vs. Severity of Punishment* (Washington, DC: The Sentencing Project, November 2010); Mark A.R. Kleiman and Angela Hawken, “Fixing the Parole System,” *Issues in Science and Technology* XXIV, 4 (Summer 2008), <http://issues.org/24-4/kleiman/> (accessed October 24, 2016); and Swift Certain & Fair, <http://www.swiftcertainfair.com/> (accessed July 6, 2016).

Vera encourages the Department to develop structures for monitoring the use of restricted privileges.

- b. Engage the BOC to create flexibility in Minimum Standards, when appropriate.** In lieu of segregation, work with BOC to modify Minimum Standards when necessary as a response to disciplinary challenges—for example, allowing for temporary, short cell lock-in on the unit, as is done in CAPS.
- c. Leverage existing programs and privileges, and expand others.** The Department has a number of programs employed on a small scale, like enhanced recreation and the token system used in PACE and CAPS units.⁷³ Vera recommends making programs like these available to more people in department custody; officers on units can remove access to these programs and privileges without severely restricting movement and social interaction (e.g., removal of tokens in response to negative behavior). In addition, Vera suggests the Department encourage staff to be creative in responding to behavior, such as expanding the use of “community service” or essay writing as options that could be applied by officers. Develop a tracking system to monitor the use of alternative sanctions and to measure their impact.
- d. Focus on behavior change when responding to rule violations.** Sanctions do not require restrictions, and the Department should always consider the least restrictive response option possible. Vera suggests the Department consider other non-restrictive measures, such as mandating participation in programming that targets problematic behavior, when appropriate. For example, if a person tests positive for a substance, consider providing substance use treatment programming in lieu of a sanction to punitive segregation. See Recommendation B6.b, page 49, for more on developing targeted programming.

Recommendation B3: Reduce 20-day penalties to 10 or 15 days. According to the sanctioning grid used by adjudication captains, individuals found guilty of some Grade I violent offenses may receive a sentence to CPSU for a maximum of 20 days if it is their first or second violation.⁷⁴ Researchers have found no evidence that longer stays in disciplinary segregation

⁷³ In PACE and CAPS units, tokens are distributed to people when they accomplish basic daily tasks (maintain personal hygiene, keep a tidy cell, etc.). People may redeem their tokens for privileges like movie nights, extra commissary items, or barbershop vouchers. Tokens can also be taken away in response to negative behavior.

⁷⁴ For example, Rule 101.10 (“Assault on staff with injury or attempted injury at any staff member, including spitting, throwing any object or substance”), Sublevel B (“Not intended to cause serious injury: spits without intent to make contact, incidentally hits officer, etc.”) results in a maximum penalty of 20 days in CPSU for the first two infractions. Only when an individual has been found guilty of 101.10, Sublevel B for a third time does the maximum penalty advance to 30 days in CPSU. See

decrease infractions or violence by people upon return to general population.⁷⁵ While the Department’s cap at 30 days for most infractions is in line with what several state systems—including Washington State, Colorado, and New Mexico—have settled on, others are moving to cap disciplinary segregation at 15 days, including Delaware and Ohio.⁷⁶

Recommendation B4: Increase transparency of department directives and practices regarding due process procedures. As outlined in Findings B11 and B12, delays and backlogs in the disciplinary process result in distrust in disciplinary proceedings and outcomes. Vera recommends the Department:

- a. Create a single sanctioning grid.** To cut down on the number of policy documents and other official documents that present information regarding department rules and procedures in various ways, Vera urges the Department to create one version that is included in all department directives related to the use of punitive segregation or due process proceedings, as well as in all orientation materials, rulebooks, and handbooks shared with adults in department custody. In addition, Vera encourages the Department to share the sanctioning grid with adults in custody at intake as well as when an infraction ticket is issued, and to review this with them throughout disciplinary proceedings.
- b. Train staff on due process policies and procedures.** Although new cadets are trained on disciplinary proceedings at the Department’s academy, and all staff have access to department directives related to punitive segregation and disciplinary due process, these trainings should be periodically supplemented with continuing education and coaching, especially when significant policy changes are made. Feedback mechanisms can also help. For example, if an adjudication captain dismisses an infraction ticket for administrative reasons (because, say, handwriting on Form 6500A “Report and Notice of Infraction” is illegible, or not enough detail is provided to move the proceedings forward, etc.), Vera encourages the Department to share that feedback with the reporting officer.
- c. Implement procedures that allow adjudication captains to communicate disposition outcomes directly to people who have been found guilty of an infraction.** Currently, dispositions are decided after the disciplinary hearing has

New York City Department of Correction, *Punitive Segregation Sentencing Grid* (New York: NYC DOC, 2015).

⁷⁵ Frost and Monteiro, 2016.

⁷⁶ See Pacholke and Mullins, 2016; Raemisch and Wasco, 2015; and *Community Legal Aid Society, Inc. v. Coupe*, No. 15-688 (D.D.E. Sept. 1, 2016). This court order approves a legal settlement in Delaware capping disciplinary segregation at 15 days.

concluded, and facility staff—not adjudication captains—inform people of the outcome of their case in writing once it has been adjudicated.⁷⁷ By adjusting the process slightly, the adjudication captain assigned to a specific case may explain case outcomes verbally, allowing individuals to ask questions regarding their placement into punitive segregation as well as the justifications for the sanction.

- d. Reflect OSIU decision-making and tracking processes in department-wide data systems.** OSIU tracks individual-level data, like people who are awaiting reviews by mental health providers prior to placement into segregation—among other data—within the unit’s tracking mechanism, but does not report this information department-wide. By increasing the information that is shared, the Department has the opportunity to eliminate silos.

Recommendation B5: Reduce the number of people for whom the Department has overridden the 30- or 60-day limit. As outlined in Finding B7, while not common, the Department has a number of people who have been in punitive segregation for more than 60 days. To reduce the use of departmental overrides, Vera recommends the following:

- a. Use OSIU to filter override requests before they are sent to the Chief of Department.** Department staff may make requests to the chief of department to override the BOC standards regarding time limitations in punitive segregation. While OSIU reviews all requests to ensure they meet override criteria prior to their submission to the chief of department for approval, it was reported that many requests that meet override criteria may still not be suitable for a departmental override for various reasons. OSIU staff reported personnel resources are unnecessarily expended considering these requests. To cut back on this, Vera suggests using OSIU’s expertise with the in-custody population to filter the requests that are submitted to the chief of department. Importantly, OSIU should not be granted authority to approve override requests, solely the authority to deny them. The chief of department’s role in the override process should remain the same, and approval of these requests should continue to be the exception, not the norm.
- b. Determine if less-restrictive housing may be appropriate.** Before an override request is approved by the chief of department, Vera urges the Department to consider placement into less-restrictive housing units, if appropriate. According to the BOC amended rules, for all overrides, the Department must explain any security concerns an individual poses. When approving overrides, Vera also encourages the Department to explain what other housing options were considered, and the reasons placement into

⁷⁷ See Department Directive 6500R-D, “Inmate Disciplinary Due Process,” Section III.C.36, p. 17.

less-restrictive housing units was not appropriate. Overrides are only suitable when it is determined that no other unit aside from CPSU, RHU, and PSEG II would maintain security and meet the needs of the incarcerated person.

- c. Develop individualized case plans for approved overrides.** When the Department has determined a person cannot safely be returned to general population—resulting in a 30- or 60-day override—the Department should create a detailed, proactive, and individualized case plan outlining the person’s needs, which the Department will proactively work to address during the override period.
- d. Establish procedures for individuals to earn time off their owed punitive segregation time.** As discussed in Finding B13, it was reported that some individuals who reach their 30- or 60-day limits and are moved to general population do not immediately return to punitive segregation after they become eligible again—if their behavior remains violation-free. Vera suggests formalizing this practice by creating ways for individuals to earn time off the punitive segregation time owed (for example, by remaining infraction-free). By establishing these procedures, the Department will not only reduce time spent in punitive segregation, but will also incentivize positive behavior.

Recommendation B6: Improve conditions of confinement in punitive segregation.

In addressing conditions of confinement, the U.S. Department of Justice’s guiding principles on the use of restrictive housing call on correctional systems to increase the minimum amount of time that adults in restrictive housing can spend outside their cells and to offer enhanced in-cell opportunities.⁷⁸ Vera recommends the following:

- a. Allow more opportunities for out-of-cell time and congregate activity.** Increase the amount of out-of-cell recreation time afforded to adults in CPSU and RHU (see Recommendation B10, page 50, for more on how to restructure the RHU program). Consider assessing adults in punitive segregation and matching some people for compatibility to have congregate yard time.
- b. Develop behavior-specific programming.** Ensure programming provided on the unit targets behavior the Department aims to modify. For example, work with H+H to provide cognitive behavioral therapy (CBT) to individuals who would benefit from this counseling approach.
- c. Create more opportunities for productive activities in-cell.** Consider installing televisions or handing out MP3 players or tablets that could deliver programming or

⁷⁸ See DOJ, 2016, 99.

entertainment to adults in custody.⁷⁹ It should be noted that the Department reports they began issuing tablets to people in restrictive settings in West Facility in March 2017; Vera encourages the Department to expand this programming to other restrictive units.

Recommendation B7: Increase presence of mental health providers in CPSU. As noted in Finding B15, access to mental health care in CPSU is, in practice, only available when individuals who are incarcerated or staff request it. Increasing consistent rounds allows qualified mental health professionals to provide essential care for people housed in segregation and to provide additional mental health assistance if it is needed. Vera encourages the Department to ensure that any incarcerated person is able to continue to receive the therapy or mental health programming that they received in general population, and that they receive any additional treatment necessitated by their being housed in a significantly more restrictive and isolating environment.

Recommendation B8: Close PSEG II. By creating alternative sanctions for Grade II and nonviolent Grade I infractions, as outlined in Recommendation B2 on page 45, the Department will not need PSEG II as a response option.

Recommendation B9: Establish achievable pathways out of CPSU and PSEG II. Similar to the methods used in RHU and ESH, the Department might consider developing ways for people in CPSU and PSEG II to earn time off of their segregation sanction by establishing criteria for time cuts (for example, by remaining infraction-free or participating in programming).

- a. Develop criteria to cut deferred time once back in general population.** For successful early completions, Vera urges the Department to cut remaining time from the sanction (as opposed to suspending or holding the cut time in abeyance). If the Department decides to hold segregation time in abeyance, consider implementing a program for people to eliminate that time when they are in general population.

⁷⁹ In 2008, the Hampden County Sheriff's Department in Massachusetts began distributing pre-programmed MP3 players to inmates in segregation as a reward for demonstrating positive behavior and following the rules. The material programmed into the MP3 players includes self-help audio programs, treatment programs, contemporary and classical music, nature sounds, and audio books. The sheriff's department has found MP3 players to be a cost-effective way to keep incarcerated people engaged in productive activities and to reinforce positive behavior. For more on the Hampden County Sheriff's Department's use of MP3 players, see Francis Olive and John Evon, "The Utilization of MP3 Players in Correctional Segregation Units," *Corrections Today* 74, no. 6 (December 2012-January 2013), 53.

Recommendation B10: Restructure the RHU program. As discussed in Finding B6.b, people are most frequently released from RHU after 30 days—indicating people in RHU tend to stay for the duration of their punitive segregation sanction. To decrease lengths of stay in RHU, and to better accommodate people with mental health needs, Vera recommends the following:

- a. Adjust the RHU incentive program to accommodate 30-day limits.** Originally intended to allow people to earn their way out of RHU early, given the new 30-day time limit outlined in BOC rules, the current structure of the RHU program does not incentivize early release from the unit. Today, assuming perfect compliance with the program, the earliest a person can move through the levels in RHU is 30 days, which does not allow people with 30 day sanctions to be released prior to the completion of their punitive segregation sanction. Vera urges the Department to shorten the length of time between reviews for level progression to allow people to complete the program before the 30-day limit.⁸⁰ Furthermore, for successful early completions, Vera suggests cutting all remaining time from the sanction (as opposed to suspending or holding the cut time in abeyance).⁸¹
- b. Increase out-of-cell time, beginning with Level Zero (the most restrictive level of RHU).** Given the RHU program’s focus on individuals with mental health needs, for whom a mental health practitioner has determined CPSU would be psychologically intolerable, Vera advises the Department to begin the RHU level program with less restriction than CPSU. Vera urges the Department to provide 20 hours of out-of-cell time per week, with at least 10 or 15 of those hours consisting of structured therapeutic activities.⁸²
- c. Develop behavior-specific treatment plans and programming.** Work with NYC Health + Hospitals to develop treatment specific to the mental health needs of individuals on the unit. Ensure programming provided on the unit targets behavior the Department aims to modify.

Recommendation B11: Establish a structured reintegration process for people who are released from punitive segregation into general population. In practice, release to the general population means that people in segregated housing go from living in restrictive, isolated environments to living in cells or dorms where they are surrounded by people. As

⁸⁰ At the time of Vera’s assessment, the RHU program had recently restructured to review level progression weekly rather than once every two weeks. The program was restructured in response to BOC rule changes and was designed to have individuals complete the program within a 30-day time period. It should be noted that the RHU directive Vera reviewed did not reflect this practice change.

⁸¹ Current RHU policy results in a 50 percent reduction in owed punitive segregation time.

⁸² Jeffrey Metzner and Joel Dvoskin, “An Overview of Correctional Psychiatry,” *Psychiatric Clinics of North America* 29 (2006): 764.

discussed in Finding B15, people experience a number of potentially devastating effects while in segregation, including but not limited to hypersensitivity to stimuli; distortions and hallucinations; increased anxiety and nervousness; diminished impulse control; severe and chronic depression; appetite loss and weight loss; heart palpitations; talking to oneself; problems sleeping; nightmares; and self-mutilation.⁸³ These effects may make it difficult for people to successfully transition back to general population. To address this, Vera recommends the Department create an assessment process to determine which adults in custody may require support reintegrating into general population.

Generally, the goal of reintegration support is to help people succeed in general population housing after a stay in segregation. Community reentry programs may serve as a model the Department can apply to the corrections setting; for example, the Department may consider creating linkages to services and programs that support individuals through the adjustment period; conducting "in-reach"—where officers from general population work collaboratively with officers on restrictive housing units to learn the challenges and needs of individuals leaving restrictive housing; and creating open lines of communication between the incarcerated person and officers on general population units so individuals understand there is a support structure in place to help them succeed.

Recommendation B12: Incentivize positive behavior in general population.

- a. Use increased privileges to incentivize positive behavior.** In addition to adding privileges to establish an alternative sanctioning model, as outlined in Recommendation B2, increased privileges may also serve as an incentive for positive behavior; the Department can offer access to privileges for adults in custody who display positive behavior. Vera recommends the Department develop guidelines for incentive programs and track use of incentives so they are implemented fairly and with fidelity.⁸⁴
- b. Use security classification to differentiate between privilege levels in general population.** Consider offering more privileges to lower security classifications. The Department can move people between security levels dependent on

⁸³ See Alison Shames, Ram Subramanian, and Jessa Wilcox, *Solitary Confinement: Common Misconceptions and Emerging Safe Alternatives* (New York: Vera Institute of Justice, 2015), 17.

⁸⁴ The Department reports it has been piloting accelerated programming units (APUs), a new model for general population units. According to discussions with the Department, APUs use an incentive-based management model, where housing units are rewarded with increased privileges when the housing unit as a whole maintains safety. Reported privileges include access to tablets, increased commissary, family days, movie nights, and enhanced recreation, among others. In addition to group privileges, the Department also reportedly provides individual incentives in APUs; as individuals participate in programming, more programs become available to them. Currently, there are APUs at GRVC, AMKC, OBCC, and MDC.

behavior, allowing the Department to respond to behavior without resorting to the most restrictive measures.

- c. Defer segregation sanctions as an incentive.** Building on the departmental practices that lead to delays between adjudication and placement into punitive segregation (see Finding B11, page 41), Vera suggests offering deferred segregation sanctions when appropriate. Similar to a deferred prosecution model used by district attorneys' offices, people can be offered a deferred segregation sentence which will only be activated if they commit another infraction. It is important that the Department defer the sanction for a defined period of time—not indefinitely—and that the sanction is expunged if an individual is able to stay infraction-free during that period. Clear communication to the individual about the deferred sanction is also essential, and offers the Department an opportunity to incentivize positive behavior.

Recommendation B13: Explore deterrence-based violence reduction models and consider piloting such a model. As discussed in Finding A3 on page 31, individuals deemed to be involved with an SRG are more likely to come into contact with restrictive housing than people who are not involved with an SRG. To target group behavior, Vera encourages the Department to explore group-violence reduction strategies. Although common in the community, group violence reduction strategies—as opposed to strategies that focus on suppression and containment—are newer to corrections. Early applications, however, have shown promising results that the Department can learn from.

The National Network for Safe Communities, which supports communities implementing strategic interventions to reduce violence and provides numerous resources on deterrence-based violence reduction strategies, worked with the Washington Department of Corrections in 2012 to pilot a prison violence intervention based on the principles of Operation

Operation Ceasefire

Communities have experimented with group-violence intervention strategies dating back to Operation Ceasefire, a gun-violence reduction effort launched in the 1990s in Boston. This approach has since been replicated in other communities and has been shown to reduce violence significantly. Unlike suppression and containment models—traditionally used by both law enforcement and correctional agencies to punish individuals for singular offenses—the Ceasefire model is based on principles of deterrence and recognizes that many serious offenses are motivated by group dynamics.

Ceasefire (see textbox for more information).⁸⁵

At the end of 2012, the Washington Department of Corrections launched Operation Place Safety, which uses the Ceasefire framework to combat violence at the Washington State Penitentiary. DOC administrators identified three prohibited acts to target for group enforcement, provided opportunities for rehabilitative programming, and educated incarcerated people about the prohibitions against those targeted acts, consequences for engaging in them, and the programs available to them if they maintained appropriate conduct.⁸⁶ In the first year of implementing Operation Place Safety, the Washington Department of Corrections reported seeing a 50 percent decrease in the three violent prohibited acts.⁸⁷

In 2014, administrators at State Correctional Institution Forest, a prison in Pennsylvania, worked with the Washington Department of Corrections to develop their own version of this program called Operation Stop Violence. Though their program is still relatively new, they have also reported a reduction in violence in the first few months.⁸⁸

Recommendation B14: Eliminate the automatic assessment of a \$25 fine for all infractions. As mentioned in Finding B5 on page 48, the Department automatically assigns a \$25 fine to all guilty infractions. Fines disproportionately impact indigent individuals, and there is little evidence that they lead to behavioral changes. Furthermore, in meetings and focus groups with the Vera team, department staff reported fines were an ineffective sanction. The Department may choose to include a financial penalty as an option for an alternative sanction, depending on the specific infraction (i.e., as restitution for destruction of property) and the person's ability to pay.

⁸⁵ See National Network for Safe Communities, "Prison Violence Intervention," <https://nnscommunities.org/our-work/strategy/prison-violence-intervention>.

⁸⁶ See Warner et al., 2014, 2. The Vera project team also heard about this program from former Washington Department of Corrections Secretary Dan Pacholke in a conference call on March 8, 2016.

⁸⁷ Warner et al., 2014, 20.

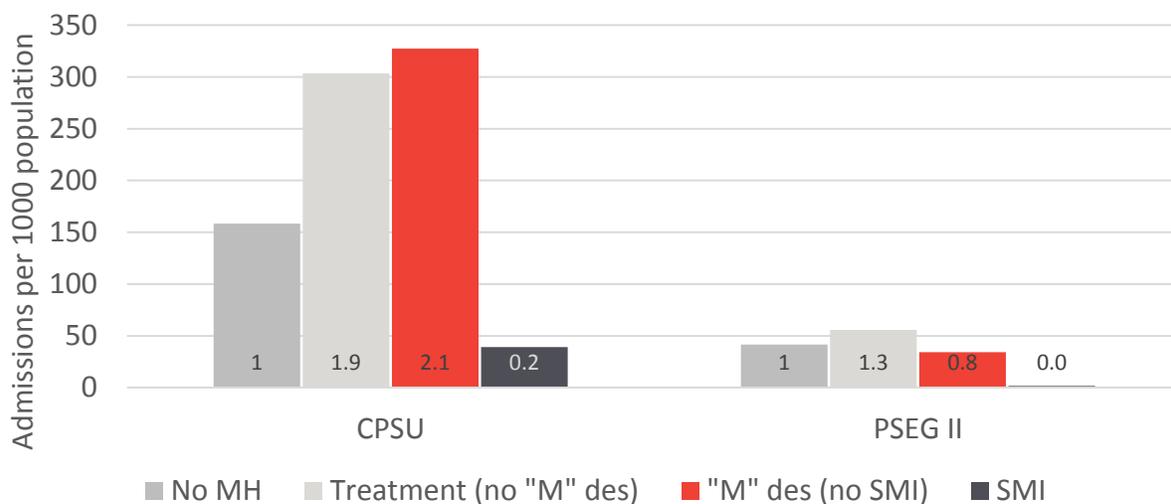
⁸⁸ Michael Overmyer, Warden, Pennsylvania Department of Corrections, phone call with Vera project team, February 25, 2016.

C. Mental health populations

Findings

Finding C1: People with an “M” designation are overrepresented in admissions to CPSU.⁸⁹ In 2015, people with an “M” designation were admitted to CPSU at 2.1 times the rate of people who have no documented mental health needs, as shown in Figure 13 below. People without an “M” designation but who have received some mental health treatment are admitted to CPSU at 1.9 times the rate of people who have no documented mental health needs. As a result, people with “M” designations drive the punitive segregation population; 57 percent of the population in CPSU in the third quarter of 2015 had an “M” designation.

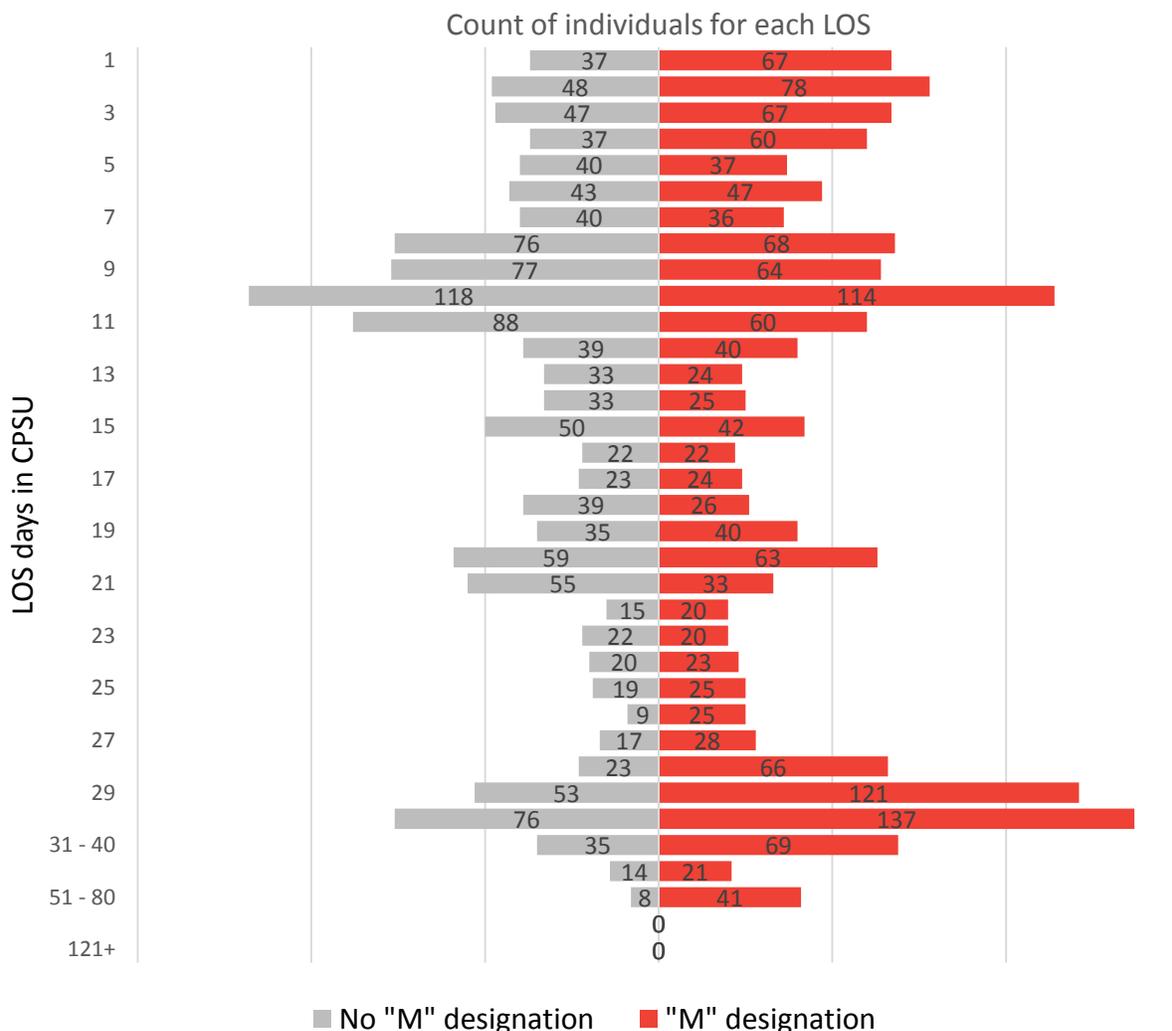
Figure 13: Disparities in punitive segregation admissions by mental health status



⁸⁹ Because any one individual may have more than one mental health status (treatment, “M” designation, and/or SMI), the authors assign them hierarchically. If an individual has been diagnosed with SMI, they are in the SMI category, and not in the “M” designation category. The treatment category is for individuals who have received treatment (counseling or medication) but do not have an “M” designation or an SMI.

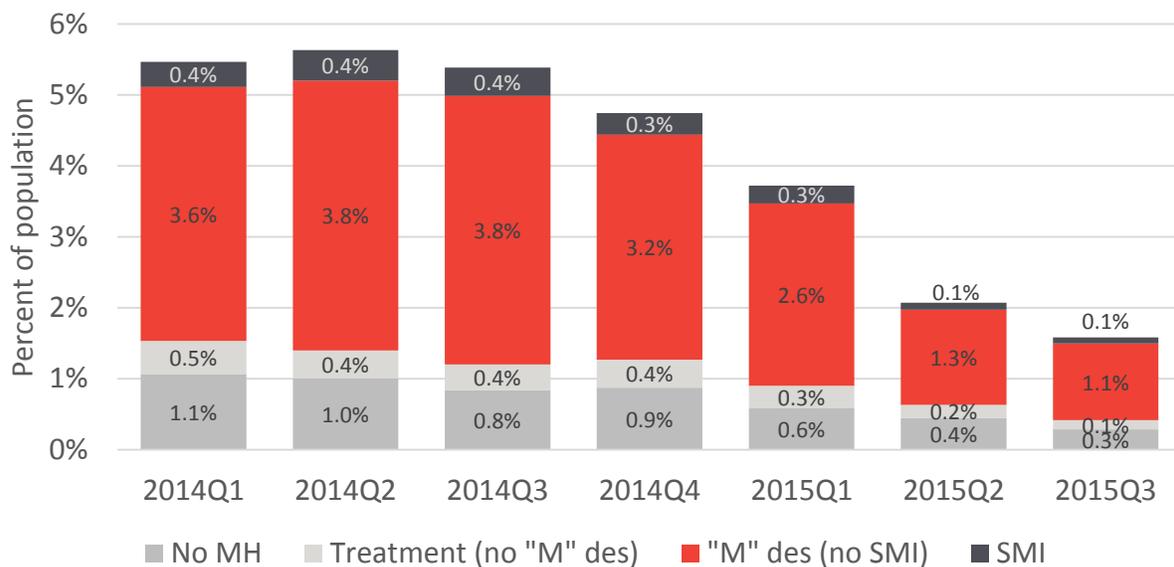
Finding C2: People who have an “M” designation are more likely to serve longer sentences in CPSU than those without an “M” designation. See Figure 14 for a comparison in the length of stay (LOS) in CPSU in 2015. The bars on the bottom of the chart, representing longer LOS, have greater proportions of red than the bars on the top of the chart, representing shorter LOS. The median number of days spent in CPSU for people without an “M” designation was 12 while the median for those with an “M” designation was 15. The last four bars on the bottom of the chart represent individuals who spent 30 days or more in CPSU; 10 percent of those without an “M” designation who went to CPSU spent 30 days or more there while 15 percent of those with an “M” designation who went to CPSU spent 30 days or more.

Figure 14: LOS in days by "M" designation in CPSU



Finding C3: A small number of people with serious mental illness (SMI) may be spending time in punitive segregation (CPSU, RHU).⁹⁰ The data analysis and conversations with mental health providers suggest that, although the practice has diminished substantially since the beginning of 2015, some people with SMIs may be slipping through safeguards the Department and NYC Health + Hospitals have put in place since the BOC enacted restrictions on the people who may be placed in punitive segregation. In the third quarter of 2015, there were 32 people with an SMI admitted into punitive segregation a total of 39 times—some going more than once. There were an average of four people with an SMI per day both in CPSU and in RHU. Figure 15 shows the average proportions for each type of unit per quarter. Note that the data does not allow Vera to determine when an SMI diagnosis is assigned to an individual, so it is possible the diagnosis came after their time in CPSU or RHU.

Figure 15 : Punitive segregation (CPSU and RHU) trends by mental health status



⁹⁰ According to the New York City Board of Correction (BOC)'s Notice of Adoption of Rules, "...inmates with serious mental or serious physical disabilities or conditions may not be placed in enhanced supervision housing or punitive segregation." For more information on the changes to the use of punitive segregation in New York City, see BOC, *Notice of Adoption of Rules* (New York: BOC, 2015), 2.

Finding C4: No mental health information, aside from the “M” designation, is available to assist adjudication captains with their decision-making.⁹¹ Information around the mental health capacity of incarcerated individuals who have committed an infraction, including potential changes in their behavioral health needs and a clinician’s recommended treatment adjustments, can allow for adjudication decision-making to be holistic and centered on an individual’s needs; responding with segregation may not address underlying health needs or may inappropriately exacerbate health conditions.

Finding C5: Although people in mental observation (MO) units are more likely to be charged, found guilty, and receive a punitive segregation sanction than people in other units, they are less likely to serve segregation time.

- People in MO units make up approximately 2.6 percent of the total population in department custody but account for 3.6 percent of infractions charged, making them 40 percent more likely to be charged with infractions than the rest of the population.
- Once they are charged, they are 5 percent more likely to be found guilty of their infraction and, once found guilty, 9 percent more likely to receive a segregation sanction.
- However, once sanctioned, they are 33 percent *less* likely to serve any time in segregation or CAPS. Those who do serve their segregation sanction are most likely to do so in RHU. These discrepancies are likely caused by the delays in mental health reviews for people with “M” designations (see Finding B11, page 41).

Finding C6: MO units offer few opportunities to participate in programming, and do not use incentive-based methods for behavior management. Aside from the increased presence of mental health providers, MO units operate similarly to general population units, and the Department does not provide programming that is specific to this population’s needs. Furthermore, MO units lack systems of incentive-based behavior management for officers to employ as a way to promote positive behavior or as informal sanctions.

Finding C7: Integration of mental health providers into MO unit operations is limited. Mental health providers conduct rounds each day (which is more contact than those in

⁹¹ Unless an adjudication captain requests one, mental health staff do not conduct assessments of people with “M” designations until after the disciplinary hearing has concluded and a segregation sanction has been imposed.

GP housing units receive), but are otherwise not involved with daily operations, program planning, or behavior management.⁹²

Finding C8: In most cases, the Department does not permanently assign correctional staff to MO units, resulting in proper and relevant training of some officers but not others. The practice of assigning dedicated staff to specific units, known in New York City as “steady staffing” or “permanent staffing,” allows correctional agencies to target specialized training to officers who work with unique populations. The Department reports progress towards permanent assignments of staff on MO units.

Recommendations

Recommendation C1: For people charged with a CPSU-eligible infraction, work with H+H to incorporate mental health reviews (for people with “M” designations) into the disciplinary process, prior to disposition. As discussed in Finding C4 on page 58, with more information, adjudication captains can better determine appropriate responses to behavior. For example, a mental health review may reveal adjustments to a patient’s treatment plan are needed, and an adjudication captain may determine those adjustments are sufficient and an additional response is not necessary. By moving the review earlier in the disciplinary process, the review can both inform response options as well as determine if an individual can psychologically tolerate the conditions in CPSU.

To ensure an impartial assessment, an independent mental health professional should conduct such a review (as opposed to the mental health clinician providing ongoing treatment for the individual undergoing the disciplinary hearing). In addition, it is important to ensure that the incorporation of a mental health review earlier in the process does not amount to mental health providers making disposition decisions, but rather that the results of the review are used by adjudication captains to inform disposition decision-making.⁹³

⁹² In contrast, uniform and non-uniform department staff and the mental health providers working on units like CAPS and PACE report their success in managing problematic behavior and treating the underlying causes of that behavior. Officers and mental health providers attribute this success both to a renewed sense of collaboration and teamwork between uniform and clinical staff on each unit, and to the specialized training officers receive when they are assigned to CAPS and PACE units. Furthermore, “treatment teams,” a clinical model adapted from the mental health profession, in CAPS and PACE includes correctional officers, reaffirming the importance of collaboration and teamwork among all staff.

⁹³ In recent years, attention has been drawn to the role of mental health providers in correctional settings, with intense focus on the ethical challenges medical professionals face in providing reviews prior to someone’s placement into isolation. For these reasons, the National Commission of Correctional Healthcare (NCCHC) adopted a position statement on the use of solitary confinement in correctional settings in April 2016. In accordance with this position statement, “Health staff must not

Recommendation C2: Use alternative sanctions that respond to behavior when adults in custody with “M” designations commit infractions. As the Department works to increase the overall use of alternative sanctions to punitive segregation, Vera urges the Department to develop alternative responses specific to this population (such as an increase in treatment, if deemed necessary by mental health professionals).

Recommendation C3: Incorporate informal responses and incentive-based systems, like the token system used in PACE and CAPS, into the general operations of MO units.⁹⁴ Recommendation B2 on page 45, regarding the development of a structure of alternative sanctions and informal responses, may be appropriate for implementation in MO units for the same reasons articulated in that recommendation.

Recommendation C4: Increase permanent staff assignments in MO units and recruit staff that are skilled at working with this population. Provide specialized training (e.g., crisis intervention team (CIT) training, de-escalation techniques, etc.) to all staff assigned to MO units so they are prepared to work with people with mental health needs.⁹⁵

CIT is an in-depth first responder course (usually 40 hours) that teaches law enforcement officers how to respond to and de-escalate mental health crises. It was first developed in Memphis in the 1980s and has since spread to many police and correctional agencies. During the course of the assessment, Vera learned that the Oregon Department of Corrections has sent one group of staff to crisis intervention training and is working to expand CIT to staff at the Oregon State Penitentiary. The North Carolina Department of Public Safety

be involved in determining whether adults or juveniles are physically or psychologically able to be placed in isolation.” See NCCHC, “Position Statement: Solitary Confinement (Isolation)” (Chicago: NCCHC Health Care Board of Directors, adopted April 10, 2016); see also the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), 14.

⁹⁴ In PACE and CAPS units, tokens are distributed to people when they accomplish basic daily tasks (maintain personal hygiene, keep a tidy cell, etc.). People may redeem their tokens for privileges like movie nights, extra commissary items, or barbershop vouchers. Tokens can also be taken away in response to negative behavior.

⁹⁵ The Department reports that some training modules that have a de-escalation component have been used by the Department since October 2014. Since that time, staff working with adolescent (16- and 17-year-old) and young adult (18- to 21-year-old) populations, cadet classes, and pre-promotional staff have received that training. Another de-escalation training focused on conflict resolution was incorporated into the Department’s training academy curriculum in February 2016, and has been given to all recruit classes and pre-promotional staff since that time. In July 2015, the Department reports select staff at AMKC were trained in CIT; CIT training is not included in the training curriculum recruits receive.

(DPS) is also working to provide CIT training and training on other de-escalation techniques to all prison employees.

Recommendation C5: Work with H+H to provide a higher level of care on MO units. Higher levels of care emphasize the delivery of therapeutic interventions aimed at reducing negative health outcomes (self-harm, mental health decompensation, etc.) and use coordinated treatment teams to deliver targeted and consistent treatment and programming like talk, music, and art therapy—both in group settings and in one-on-one interactions with clinicians.

Recommendation C6: With H+H’s input, design treatment teams for MO units that incorporate correctional officers. As is already done in the Department’s CAPS and PACE units, Vera encourages the Department to work with H+H to develop teams where clinical and security staff work collaboratively to deliver integrated treatment. When uniform staff are engaged with treatment, they begin to understand the needs of the population, which may inform responses to rule violations or unfavorable behavior. Permanent staffing in MO units and proper training is required for this recommendation to be successful. See Recommendation C4, page 60.

Recommendation C7: Work with H+H to review all people with an “M” designation currently housed in CPSU and RHU to ensure no one in these units has an SMI diagnosis. Immediately find alternative, non-restrictive housing options for any individuals with an SMI. Incorporate periodic reviews into department practice. In addition to the BOC Minimum Standards and department policy, both of which prohibit the placement of people with an SMI into punitive segregation, it has been well-documented in federal court cases, legal settlements, and medical and mental health research that people with SMIs are more vulnerable to the harms of isolating conditions.⁹⁶ In April 2016, the National Commission on Correctional Health Care issued a position statement stating strongly that people with mental illness should be excluded from solitary confinement for any duration.⁹⁷

⁹⁶ See Frost and Monteiro, 2016, 9-12, for a synopsis on federal court cases and consent decrees. For settlements involving the New York Department of Corrections and Community Supervision and the California Department of Corrections and Rehabilitation, see *Peoples v. Annucci*, 2016 U.S. Dist. LEXIS 43556 (S.D.N.Y., Mar. 31, 2016); and *Ashker v. Governor of California*, Settlement Agreement C 09-05796 CW (N.D. California, 2015). For an overview of medical and mental health research, see Alison Shames, Ram Subramanian, and Jessa Wilcox, 2015, 17-18; and David H. Cloud, Ernest Drucker, Angela Browne, and Jim Parsons, “Public Health and Solitary Confinement in the United States,” *American Journal of Public Health* 105, 1 (January 2015), 18-26.

⁹⁷ NCCHC, 2016.

Additionally, DOJ’s guiding principles state that, “generally, [adults in custody] with serious mental illness (SMI) should not be placed in restrictive housing.”⁹⁸

Recommendation C8: Conduct an analysis of everyone with an SMI who has spent some amount of time in punitive segregation since January 2015 to determine if they were known to have an SMI prior to their placement in segregation. Since the data does not allow Vera to determine when an SMI diagnosis was assigned to an individual, it is important that the Department and H+H investigate further to ensure policies and legal expectations have been adhered to. If it is determined that anyone spent time in punitive segregation after diagnosis with an SMI, examine the causes for this placement and establish safeguards to prevent future violations of policy.

Recommendation C9: Work with H+H to revise the CAPS operation manual to clarify that people diagnosed with SMIs cannot be housed in CPSU, PSEG II, or RHU. CAPS is intended to provide alternative, non-restrictive housing to individuals diagnosed with an SMI who have been found guilty of committing an infraction, yet according to the H+H CAPS Operation Manuals, admissions criteria excludes some individuals who may have an SMI diagnosis but whose difficulties stem from antisocial personality traits or some other non-psychiatric cause. Clarification between all agencies—and their respective directives—that punitive segregation is inappropriate for all people with an SMI diagnosis is important to ensure people are not placed in conditions that are exceedingly harmful. If CAPS is not the appropriate place for these individuals, H+H and the Department should consider designing alternative, non-restrictive strategies for addressing their needs.

Recommendation C10: Consult with NYC Health + Hospitals to find ways to share more mental health information with the Department. Many other health agencies and corrections departments share critical mental health information without violating privacy protections (see, for example, the Health Insurance Portability and Accountability Act of 1996, or HIPAA). Some agencies have done this through a process of “data segmentation,” which allows practitioners to access some but not all data or access data under specific criteria or instances.⁹⁹ For example, some agencies share broad categories of mental health diagnoses or levels of treatment need rather than individual diagnoses. If NYC Health + Hospitals shared, for example, SMI flags with the Department, the Department could sanction someone with an SMI

⁹⁸ DOJ, 2016, 99.

⁹⁹ Justice and Health Connect, *The Legal Landscape of Justice and Health Information Sharing* (New York: Vera Institute of Justice). For more, see <http://www.jhconnect.org/>.

directly to a CAPS unit (if found guilty of a violent infraction), bypassing the mental health review process altogether (see Finding B11, page 41, for more information on backlogs for people with “M” designations).

D. Enhanced supervision housing (ESH)

Findings

Finding D1: Officers who work in ESH, as well as the incarcerated people on the unit, expressed confusion around criteria for placement into ESH, pathways out, and the overall goals of the unit.¹⁰⁰ Focus groups with uniform staff and with people housed on the unit revealed misunderstandings about the purpose of ESH, the reasons why some individuals were in ESH, and how people work their way off the unit. When asked what their perception of the goals of ESH were, incarcerated people responded with frustration. They did not have a clear understanding of why they were placed in the unit, saying the reasons were never explained to them and that it “seems like they [the Department] pull names from a hat.” People housed on the unit also said they felt like they were placed into ESH for behavior for which they had already served punitive segregation time, making the experience feel like “double jeopardy.” ESH officers echoed these sentiments; they were unclear what types of behavior cause people to be placed into ESH. Some officers said they thought people on the unit were high-profile and violent or had been involved in an assault on staff, but other officers pointed out they think there are some people in ESH who have not been involved in an assault.

Furthermore, neither the people who were incarcerated on the unit nor officers were clear on how people work their way out of ESH and into general population. Incarcerated people had the perception that it was very rare for people to leave the unit, with one saying that since he’s been on the unit “only three people have left.” They also said they felt like the finishing line was a moving target. One person said, “They always switch it up. When we first got here, they told us that we need to behave for 45 days, but now it’s not like that. I’ve been here for nine months.” Some people discussed completing all the programming that was explained as a requirement to move into general population, yet still not having a clear way out. Other people said witnessing this made them unmotivated to participate in programming. They also said the movement between the two levels in the unit was arbitrary, and that it wasn’t clear why some people were moved up to Level II (less restrictive) and why some remained at Level I (more restrictive).¹⁰¹ Moreover, there was a belief that one could get sent back to Level I at any time, for any reason.

¹⁰⁰ The Department’s ESH directive outlines authorization for initial placement, hearing and determination procedures, placement criteria, the appeals process, and periodic reviews in detail. Despite the clarity within the policy, the observations reflected within this report indicate policy is not effectively translated into practice.

¹⁰¹ At the time of Vera’s focus groups with ESH staff and adults living on the unit, the unit had recently opened two more levels (Levels II and III) as a step-down from Level I—although individuals only spoke about two levels. Since then, the Department has added an additional level to the ESH unit, with Level I being most restrictive and Level IV functioning similar to general population.

Vera observed that the incarcerated people did not see movement between levels as an incentive; some people felt the programming and vocational opportunities available in Level I were better than Level II.

Officers had similar impressions regarding graduation from the unit, saying they didn't actually know what people had to do to successfully move back to general population. The officers had some inkling that people had to "comply with the program"—meaning not commit any infractions and participate in programming, but they said "it doesn't work that nicely." All officers felt there were some particular people that didn't need to be in ESH, and they expressed frustration that they were not more involved in the 45-day review process so that feedback could be given and considered by the reviewers. When people do leave the program, officers do not know where they are sent or the reasons behind their removal—whether that is graduation, transfer to a state facility, or return to the community.

Finding D2: As of July 2016, ESH's level system used by the Department was not reflected in department policy. At the time of Vera's visit to ESH in February 2016, the Department's ESH Directive did not reflect the level system observed. The directive was revised in July 2016, yet did not include mention of the level system.

Finding D3: 56 percent of the 188 releases from ESH in 2015 into some form of punitive segregation.¹⁰² There were 107 transfers (65 distinct individuals) into punitive segregation from ESH in 2015. Fifty-two of these transfers were followed immediately by returns to ESH. It should be noted that for individuals who left ESH and then returned, our data analysis counted each return as a new stay.

Recommendations

Recommendation D1: Establish clear criteria for level progression and ways to graduate from the ESH level program. To ensure movement between the levels, Vera suggests the Department create time frames for each level (i.e., maximum lengths of stay in Levels I, II, and II) and make progression between the levels presumptive unless determined otherwise by a multidisciplinary team. Vera urges the Department to conduct reviews to identify people who may benefit from level progression prior to reaching the maximum time at a specific level, to encourage movement between levels based on behavior rather than program structure.

- a. Develop or update ESH orientation materials.** Materials should outline program goals and reinforce expectations, including how people can move through the level

¹⁰² Releases from ESH do not include people who left department custody altogether.

system. The Department reports they began distributing updated orientation materials with information about program goals, level progression, and behavioral expectations in 2016.

- b. Use multiple methods of communication (e.g., written, oral, visual) to communicate level progression, stagnation, regression, and graduation to people housed on the unit and staff who work on the unit.** Vera advises the Department to inform everyone on the unit—both individuals who are housed in ESH and those who work in the unit—swiftly of any decision-making regarding progression, stagnation, or regression between the levels. Furthermore, for individuals who stagnate or regress, Vera suggests informing the individual of the reasons for their halt in progress, as well as outlining measurable steps the individual may work on to successfully resume progress in the future. Similarly, clear communication about graduation decisions is encouraged. To accomplish these goals, the Department may consider developing individual behavior and programming plans for people housed in ESH that outline expectations and requirements for level progression and track overall progress.
- c. Revamp staff training on ESH, including the goals, level system, and their role on the unit.**

Recommendation D2: Develop a multidisciplinary team to make placement, level movement, and program completion decisions. Uniform officers of all ranks, program staff, and mental health providers can offer important insight into the progress and needs of the population within ESH. A multidisciplinary team both facilitates transparency of ESH operations and ensures the unit appropriately reflects its stated goals.

Recommendation D3: Memorialize the level system currently in practice in department policy to ensure consistency and fidelity.

Recommendation D4: Conduct periodic case file reviews of the people in ESH to ensure level system practice matches policy.

Recommendation D5: Establish a structured reintegration process for people who are released from ESH into general population. See Recommendation B11, page 51.

E. Other types of restrictive statuses and housing Units

Findings

Finding E1: The number of people in enhanced restraint (ER) has increased since 2014.¹⁰³ The number of people in ER housing on an average day doubled from 30 in 2014 to 61 in 2015. See Finding A2, page 29, for more details on the growth of ER as the Department has decreased their overall use of restrictive housing.

Finding E2: People on ER status are housed in units with varying levels of restriction and isolation. Units that house people on ER status are vastly different (in, for example, level of restriction during lock-out time, access to congregate activities, and overall levels of isolation) depending on the facility in which they are located. At the time of Vera's assessment, the housing unit at GRVC that exclusively housed people on ER status was the least restrictive, while West Facility was the most restrictive.¹⁰⁴ Due to these differences, people on ER status have very different experiences of isolation and levels of restriction depending on which unit they are placed in, and some experiences are much more restrictive than the ER directive outlines.

- As of July 2015, the unit at GRVC that exclusively housed people on ER status functioned similarly to a small general population unit: people spent their lock-out time in a small congregate area on the unit. This practice is consistent with the Department Operations Order 01/13 "Red ID and Enhanced Restraint Status Inmates," which describes the only major difference between people on ER status and people who are not on ER status as the use of restraints (security mitts, handcuffs, waist chain, etc.) for movement outside the unit.
- As of November 2015, the unit at MDC that exclusively housed people on ER status, 9 South, utilized caged enclosures for indoor out-of-cell time. Two single occupancy cells open into each enclosure. Officers at MDC pointed out that this unit was previously a

¹⁰³ Due to data limitations, Vera is only able to analyze people on ER status through the data indicators of ER housing units.

¹⁰⁴ It is important to note that per department policy, ER is a status and not a designated housing area within a facility. Many individuals on ER status are housed in various housing areas and co-mingle with individuals who are not on ER status. In practice, the Department frequently houses some individuals on ER status in a single unit without other individuals who are not on ER status. This practice is not documented in department directives, though Vera heard this practice had emerged for a number of reasons, including custody management and efficiency for officers on the units. Vera observed that these units are colloquially called "enhanced restraint units" by facility staff. The data also denotes ER housing areas.

restrictive “close custody” unit, and that they have not made any major changes in the way they operate the unit since it began housing people on ER status.¹⁰⁵

- As of March 2016, some units at West Facility where people on ER status were housed more closely resembled punitive segregation at other facilities. People spent their indoor out-of-cell time—individually or with someone else (determined on a case-by-case basis by facility staff)—in a different cell of the same size with different furniture configurations. Outdoor recreation time varied as well (determined on a case-by-case basis by facility staff). Some people spent recreation time in a large caged enclosure with other people, and others in a small caged enclosure by themselves (similar to outdoor recreation in punitive segregation).

Finding E3: There is no established process or protocol for someone to earn his or her way off of ER status. Department policy relating to ER status outlines due process procedures for placing someone on ER status, as well as the appeals process and a monthly review for some people on ER status. Despite this policy, Vera heard from individuals throughout the department—from officers on the units to Department leadership—that it is very rare for someone to be removed from ER status, with one officer saying “they never go back out to general population [from an ER housing unit].”

Finding E4: People housed in West Facility and 9 South unit at MDC, regardless of status or security classification, are living in a restrictive environment. As currently constructed and operated, anyone housed on these units is living under conditions that are more restrictive than other general population housing units Vera observed. At the time of Vera’s visit, these units exclusively held people who have been designated as ER. This status, however, should only impact their off-unit movement, not their housing conditions.

Recommendations

Recommendation E1: Reconsider the need for dedicated ER status housing units.

According to Department directives the distinction between people who are on ER status (people who have committed violent acts) and those who qualify for ESH (people who have persistently been involved in violent incidents or are influential leaders in a SRG) is very limited.

¹⁰⁵ Close custody is a housing designation that is no longer used by the Department. According to a 2007 policy directive, close custody was a type of housing designation for an incarcerated person “whose behavior poses a significant threat to the safety and security of staff or inmates or to the good order of the facility.” See New York City Department of Correction (DOC), *Department Directive 4020R-A Department Definitions of Inmate Categories* (New York: DOC, 2007).

Vera also observed confusion about the distinction amongst Department staff when asked about their understanding of ESH and people on ER status. For some, ER is used for “influentials” for others it is for people who have committed violent infractions, like slashings, consistently. The same populations were mentioned for ESH housing by various people; the factors that are considered when OSIU places people in either housing area or status are unclear. Given the overlap in populations, Vera suggests the Department eliminate dedicated ER units and instead consider housing people for whom restrictions beyond ER status are needed in either ESH or administrative segregation.¹⁰⁶ If the Department decides not to eliminate ER status housing units, Vera urges the Department to ensure Department-wide consistency in the conditions of those units. In line with the Department’s ER status policies, these units should not function differently from other general population units. If the Department sees a need for varying levels of restriction, Vera suggests memorializing these levels and their restrictions in policy, developing placement criteria, emphasizing opportunities for congregate activity without caged enclosures, and determining eligibility for progression to less restrictive settings.

Recommendation E2: Develop a process for people to work their way off ER status.

Similar to step-down programs other systems have developed to help people in segregation progress to less restrictive housing environments, Vera urges the Department to consider ways to allow and encourage movement off ER status. Once developed, clear communication of the process to both the people on ER status and the staff working with this population will be essential to effective implementation.

Recommendation E3: Conduct periodic and meaningful reviews of all people on ER status. Reviews should allow people to have their ER status removed, and should be conducted for everyone on ER status, regardless of their level of restriction.

Recommendation E4: Change, when possible, the physical structure of units whose design dictates the level of restriction and isolation experienced by the people in those units. For example, Vera suggests the Department remove the caged enclosures in MDC-9 South so it can operate as a general population unit. In cases where

¹⁰⁶ At the time of the assessment, the Department did not use administrative segregation in a manner that is consistent with other corrections agencies. In New York City, administrative segregation operated similar to a general population unit, with 14 hours out-of-cell a day in a non-restrictive setting, and was reportedly used almost exclusively as a custody management tool by the Department (i.e., the Department used administrative segregation to strategically keep certain people away from others).

changes to the physical structure are impossible, Vera recommends the Department move people to less restrictive and less isolating environments.

Recommendation E5: Discontinue the practice of placing people who are not in punitive segregation or medical isolation in West Facility. As discussed in Finding E4, Vera observed people on ER status housed in West Facility. Due to the physical structure of the facility, it is impossible for it to operate as a general population unit with true out-of-cell congregate indoor recreation. The Department has publicly stated its intention to close West Facility for non-medical purposes and move those individuals to North Infirmery Command (NIC) by June 2017.¹⁰⁷

¹⁰⁷ Martin Murphy, comment made at New York City Board of Correction (BOC) public meeting, May 9, 2017, available for viewing at <https://www.youtube.com/watch?v=6943Sid0ITw&feature=youtu.be&t=6277>.

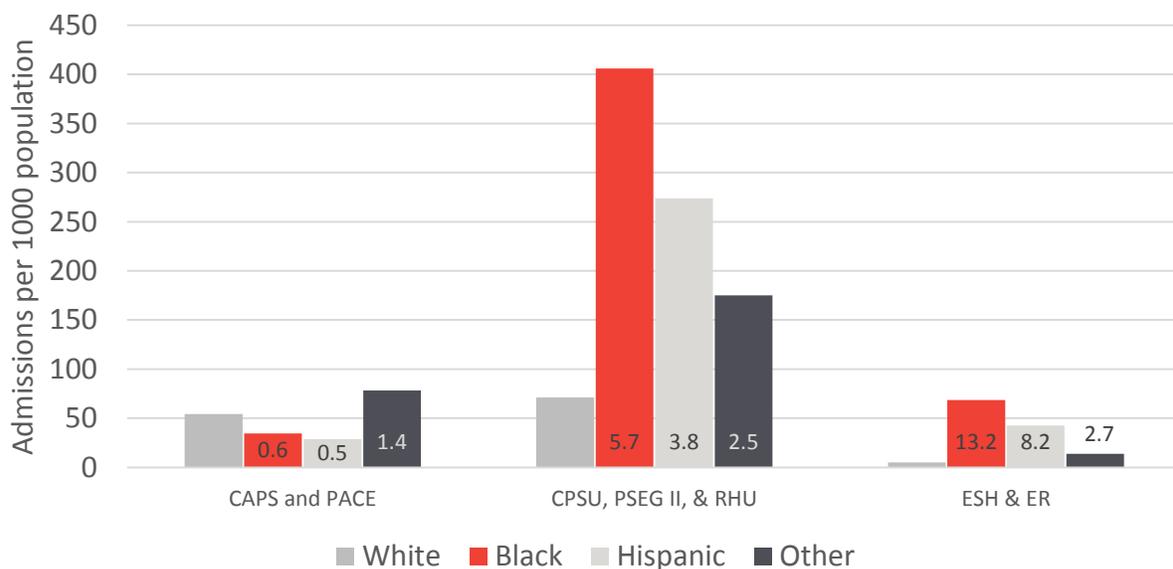
F. Racial and ethnic disparities

Pathways to segregation are complex with many factors and decision points contributing to someone being placed there. This analysis describes the outcomes of DOC's use of punitive segregation and other types of restrictive housing; it does not assess the determinants for those outcomes or make inferences about causality.

Findings

Finding F1: While the population in punitive segregation has declined, it remains disproportionately black. Compared to the overall population, there are higher proportions of black people in punitive segregation (CPSU, PSEG II, and RHU), ESH, and ER units.¹⁰⁸ Figure 16 shows the disparity through a comparison of the rates at which each group is admitted to each type of unit, relative to their presence in the entire jail population. The numbers in each bar show the relative height of the bar compared to the unnumbered bar representing white incarcerated people (i.e., the red bar in the center group is 5.7 times higher than the

Figure 16: Disparity in admissions to special housing units by race and unit type



¹⁰⁸ Due to data limitations, Vera is only able to analyze people on ER status through the data indicators of ER housing units.

unnumbered grey bar). Black people go to punitive segregation at 5.7 times the rate of white people, and to ESH and ER at 13.2 times the rate of white people.¹⁰⁹

Vera does not have sufficient evidence to offer conclusive interpretations of these patterns, but it appears that race does matter in restrictive housing in New York City. Some of the differences could be due to disparate treatment, and some could be due to population and behavior variations. More study is needed to better understand these patterns and their causes.

Finding F2: White people are disproportionately represented—and black and Latino people underrepresented—in the more therapeutic CAPS and PACE units.

Black people were admitted into CAPS and PACE at 0.6 times the rate of white people.¹¹⁰ Latino people were admitted into CAPS and PACE at half the rate of white people.¹¹¹ See Figure 16 above.

Recommendations

Recommendation F1: Create a committee to study and address disproportionate minority contact with segregated housing. Generally, people of color are overrepresented throughout the criminal justice system. In a 2015 report, the Brennan Center for Justice provided recommendations for reducing racial and ethnic disparities in jails, including the creation of a cross-departmental task force.¹¹² Creating a multidisciplinary committee could help the Department better understand the issue, set goals for the agency, consider and recommend changes to practices or policies, oversee implementation of any changes, and conduct periodic reviews of data and practice.¹¹³

Recommendation F2: Closely monitor the impact of implementing the recommendations in this report on people of color. In all internal and external reporting on the Department's use of punitive segregation, ESH, and ER status, include a breakdown by race.

¹⁰⁹ Black people were admitted into punitive segregation in 2015 at a rate of 406 per 1000 compared to a rate of 71 per 1000 for white people. Black people were admitted into ESH and ER in 2015 at a rate of 65 per 1000 compared to a rate of 5 per 1000 for white people.

¹¹⁰ Black people were admitted into CAPS and PACE in 2015 at a rate of 35 per 1000 in the average daily population (ADP) compared to a rate of 54 per 1000 for white people.

¹¹¹ Latino people were admitted into CAPS and PACE at a rate of 29 per 1000 in the ADP.

¹¹² Jessica Eaglin and Danyelle Solomon, *Reducing Racial and Ethnic Disparities in Jails: Recommendations for Local Practice* (New York: Brennan Center for Justice at New York University School of Law, 2015), 33-35.

¹¹³ Tasks adapted from Eaglin and Solomon, 2015, 33.

G. System-wide

Findings

Finding G1: Adults in department custody, regardless of their housing placement, are idle and receive limited programming. Vera observed people throughout the department engaged in very few structured activities, and the programming provided by the Department and community volunteers was often narrow in scope, targeting small segments of the population. Units that provide in-patient levels of care, like CAPS and PACE, are the exception to this finding. Vera also noted effective programming, like enhanced recreation, utilized by the Department at RMSC. At the time of the assessment, the Department was actively working to address this challenge, aiming to provide at least five hours of programming per day on every general population unit—an aim the Department reports has been met in its accelerated programming units (APUs) in “restart” facilities (GRVC, AMKC, OBCC, and MDC). In APUs, individuals in custody reportedly receive 2.5 hours of outside provider programming designed to address behavior (e.g., anger management, relapse prevention, and parenting skills) every day. Another 2.5 hours of programming is reportedly provided every day by Department staff and is aimed at reducing idleness (e.g., group counseling sessions, discussions of current events, watching sporting events, and game nights).

Finding G2: The distinction between specialized housing units is vague and varies between facilities. While the Department has a number of specialized housing units that have different missions and goals (e.g., CPSU, ER, GPE, PC, and ESH), the Department struggles to consistently differentiate between them in practice, and many seem to serve similar purposes. Confusion between PC, GPE, and general population, as well as between ESH and ER housing, abound throughout the department.¹¹⁴ Vera observed—and Department staff confirmed—that there is little difference between GPE and general population at facilities where there is escorted movement for everyone (in facilities without escorted movement, people on GPE status would be escorted and people in general population would not), and since most facilities have escorted movement, GPE essentially functions as a security tool. Furthermore, when questioned about the differences between GPE and PC, one staff person said it is “really just a label change,”

¹¹⁴ People in the custody of the Department who have safety concerns and require separation from specific people or groups of people may be placed in protective custody (PC). General population escort (GPE) is designed for individuals who may be vulnerable but who the Department has determined are not in immediate danger. An officer escorts people with GPE status any time they move out of their assigned housing area.

indicating the Department uses GPE as a security management tool for people who could be classified as PC or could be housed in general population.

The existence of so many specialized units creates challenges for department staff in making housing assignments and moving people through facilities, when certain populations cannot interact with other populations, and results in facilities operating with multiple missions.

Finding G3: There is little focus on staff wellness. When asked about wellness opportunities, staff did not feel like there were enough opportunities, and the ones that were offered (such as yoga) did not reflect their interests or needs.

Finding G4: Department directives, orientation materials, and staff resources are not always maintained to reflect current practices and policies. Similar to Findings B13 on page 43 and D2 on page 65, a number of practices and formal policies are not reflected in department directives. For example, as of December 2015, the Transitional Restorative Unit (TRU) and the Second Chance Housing Unit (SCHU), both designed as alternatives to punitive segregation for people under 18, had been in operation for about a year without an approved policy. Conversations with department staff indicated that this delay in formalizing policies led to challenges with the unit's roll out; staff expressed frustration that they weren't given direction and seemingly had to "make it up as they went along."

Furthermore, the units were created before programming was developed and implemented, giving most people the impression that no alternatives were thought out prior to the elimination of punitive segregation for this population. Overall, staff felt changes were made with little input from the facility and their specific needs, and the changes have required individual officers to manage the population in these new units without being given the tools to do so. These observations reflect the reality that staff don't always know or understand why decisions are made at headquarters, an opinion that was vocalized throughout the assessment period.

Finding G5: The types of training uniform staff receive vary, even within a single unit. Some of this variation is a result of challenges with permanent staff assignments—which means some staff might be required to fill in for permanently assigned staff despite never having received training to work with special populations (see Finding C8, page 59); some is the result of changes in the training offered in the Academy, resulting in newer cadet classes having been trained differently than officers who have been in the Department for longer.

Finding G6: The Department experiences challenges when implementing innovative new policies and procedures. Mid-management leadership report having little

formal guidance on how to communicate changes to their team, and often only have a few weeks, or sometimes a few days, to establish a new unit (one person recalled having to prepare a PC unit within 24 hours). In contrast, it was reported that when given more time to implement changes, new programs and units operated with greater success. For example, during the assessment, the Department “restarted” a number of facilities, moving people off housing units, retraining staff, and upgrading facility amenities. The Department reported this process allowed leadership to fully communicate changes to programs and units and further train staff.

Recommendations

Recommendation G1: Offer support to people in general population to help them succeed.

- a. Focus programming on people with the highest risk and needs.** Per the Department’s security classification tool, people housed in the highest security level have been identified as having high risk for demonstrating violent behavior. This provides the Department with an opportunity to direct programming resources at this population to address behavior issues and needs, which may assist in reducing admissions into punitive segregation or other restrictive statuses. The Department reports that the APU model general population units were initially launched in high-custody housing areas.
- b. Examine strategies that may help adults in custody alleviate stress and reduce their likelihood of breaking the rules.** These may include exploring ways to allow individuals to voluntarily lock in to their cell in order to remove themselves from conflict, or proactively providing access to mental health professionals when requested. Another strategy worth exploring is developing “blue rooms” or other de-escalation spaces. A blue room, originally conceived by a corrections officer in the Oregon Department of Corrections (ODOC), is a converted indoor recreation space where nature videos and sounds are projected on the wall to have a soothing effect on adults in custody. Since creating the blue room in 2014, the facility where ODOC implemented the room has seen a decline in violent episodes and cell extractions for people who have access to the room. It costs about \$1,500 a year to maintain, and security and behavioral health staff report that the blue room has led to a calmer, less chaotic environment in the unit.¹¹⁵ Repurposing unused cells or other spaces in this way would give people a place to cool off after a frustrating experience or interaction and could potentially reduce their

¹¹⁵ Allison Hastings, Elena Vanko, and Jessi LaChance, *The Safe Alternatives to Segregation Initiative: Findings and Recommendations for the Oregon Department of Corrections* (New York: Vera Institute of Justice, 2016).

risk of committing an infraction in a heated moment. Vera encourages the Department to establish a system that allows all or most adults in custody to access these spaces for meaningful periods of time.¹¹⁶

- c. **Reduce idleness.** Vera encourages the Department to continue its expansion of APU general population units. Other ways to reduce idleness include expanding access to enhanced and structured recreation, developing work opportunities, and using creativity to reduce the time people spend without something constructive to do.

Recommendation G2: Reevaluate the need for specialized housing units and statuses. There are certain specialized units across the system that do not have a clear purpose or target population, or the purpose or target population is duplicative of other units. For example:

- administrative segregation is managed similarly to general population units;
- in facilities where movement is escorted for everyone, GPE is similar to general population, and in facilities with non-escorted movement, GPE is similar to PC; and
- in some cases, the conditions of ER are similar to punitive segregation or ESH, depending on the level of restrictions within ER.

Vera suggests the Department consider the following changes:

- a. **Eliminate GPE in facilities that already have escorted movement.**
- b. **Merge GPE and PC in all non-escorted movement facilities.**
- c. **Eliminate administrative segregation and house people by security classification instead.**

Recommendation G3: Explore ways to improve staff wellness, particularly for those staff assigned to segregated housing units. For example, ODOC has prioritized staff wellness agency-wide, partnering with local universities to conduct studies that allow the agency to better understand stressors corrections officers are exposed to and initiating programs to help mitigate that stress. At one facility, ODOC has successfully piloted an orientation initiative to help families of new corrections officers understand the challenges and stresses of

¹¹⁶ Colorado has introduced de-escalation rooms in some of its facilities, where adults in custody can go when they need a “time out” to cool down. These rooms often have soothing wall colors, dim lights, and a comfortable chair. Individuals can listen to calming music, use exercise balls, read, and participate in art therapy. See Raemisch and Wasko, 2015.

the job and is looking at expanding its implementation statewide.¹¹⁷ The Vera team notes that a focus on staff wellness and morale is essential; allowing staff to decompress from emotionally stressful situations, like after a verbal altercation, will undoubtedly impact how staff interact with the people in their custody, and may limit uses of force and incident rates, providing a healthier workplace.

Recommendation G4: Use conflict resolution approaches as a response to interpersonal conflict among people in department custody. Conflict resolution offers an alternative approach that emphasizes finding nonviolent solutions to disputes and repairing harm caused by behavior. Vera suggests, when appropriate, the Department incorporate strategies built on this framework as a response to interpersonal conflicts that arise within the jails. Conflict resolution will not be appropriate for all infractions, and the Department will need to determine which types of infractions this approach will fit. A number of successful programs used in other justice contexts (like the courts) offer models the Department could consider:

- *Mediation*: programs that use trained neutral mediators to bring victims and offenders together to discuss the crime, the aftermath, and ways to move forward;
- *Circles*: similar to mediation, these programs include community and family members as well as the victims and offenders;
- *Conferencing*: frequently used within the criminal and juvenile justice framework, these programs are similar to mediation but include justice stakeholders, like police and attorneys; and
- *Victim-offender panels*: programs that bring together victims and people convicted of person-related offenses linked by a similar type of crime, but not a specific crime, offering indirect opportunities for discussions about the crime, the aftermath, and the resolution, when either the victim or the convicted person is unable (or unwilling) to meet the other.¹¹⁸

In the context of corrections, conflict resolution is only appropriate for incidents that occur within the jail; Vera does not suggest the Department use this approach for the crime for which

¹¹⁷ Zachary Erdman, Oregon Department of Corrections, April 24, 2017, e-mail communication with the authors.

¹¹⁸ For more information regarding the restorative justice programs mentioned here, see Center for Justice and Reconciliation, "Intro to Restorative Justice Lesson 3: Programs," <http://restorativejustice.org/restorative-justice/about-restorative-justice/tutorial-intro-to-restorative-justice/lesson-3-programs/>.

the individual is facing incarceration, only as a response to behavior that occurs once an individual is in custody.

Recommendation G5: Update all department directives, the inmate handbook, and the Inmate Rule Book to be consistent with current and new policies. Consistency between all written directives will assist in more effective communication of departmental priorities between the Department’s leadership and its staff, and it can increase comprehension and adherence to policy. Furthermore, uniformity of the departmental materials that are distributed to individuals in custody will allow people to have a clear understanding of behavioral expectations and consequences the Department might consider when infractions occur.

Recommendation G6: Institute permanent staff assignments for all specialized housing units.¹¹⁹ Assign staff whose skills and interests appropriately match the population they are working with. The Department should also review the types of training uniform and non-uniform staff receive to ensure all training is specialized to the population to which they are assigned. Vera encourages the Department to train uniform and non-uniform staff together, so each person understands everyone’s role on the team.

Recommendation G7: Incorporate a coaching model to reinforce training with feedback and accountability mechanisms. One approach might include assigning newer officers a more seasoned officer to coach them and to reinforce new skills. This coach can provide officers who are establishing new skills with direct feedback, support, and mentorship in applying those skills to their practice. Vera also suggests incorporating this model to new units (e.g., when a new ESH unit opens). Coaching can be an essential part of rolling out changes to practice and fostering a learning environment conducive to sustaining those changes.

- a. Ensure veteran officers, supervisors, and facility management receive new training when new cadet classes receive new training.** If the Department adopts a coaching model to support training, it will be essential for the Department to reinforce new skills to veteran staff as well as new cadets.

Recommendation G8: Incorporate concepts of procedural justice into training curriculum for all staff. Procedural justice (also known as procedural fairness) hinges on the

¹¹⁹ The Department reports that instituting permanent staffing assignments has been an integral part of the transition to the APU model in GRVC, AMKC, OBCC, and MDC, though not all the facilities have the staffing levels that are required to achieve fully permanent staffing structures.

idea that people perceive justice as fair, based on their perception of fairness in the *process*, not just the perception of a fair *outcome*. There are five main elements of procedural justice:

- voice—people need to feel as if their side of the story has been heard;
- respect—people need to be treated with dignity and respect;
- neutrality—people need to feel like decisions are made in an unbiased and trustworthy way;
- understanding—people need to understand what is happening and why it is happening; and
- helpfulness—people need to feel like their encounters with authority figures are constructive and that their personal circumstances are acknowledged.¹²⁰

Vera encourages the Department to train all staff on procedural justice; while the Adjudication Unit plays a key role in the Department’s due process procedures, staff at all levels initiate and engage with the adjudication process. By adding concepts of procedural justice into the Department’s training curriculum, the Department has the opportunity to further legitimize the disciplinary process, equip its officers with the tools to effectively respond to unwanted behavior, and ultimately increase compliance with departmental rules.

Recommendation G9: Engage union leadership and staff at all levels in the implementation of new strategies.

- a. Identify champions in leadership and at the facility level to lead the reform efforts on the ground.** Officers and non-uniform staff who work with the Department’s population on a daily basis can be relied on as subject-matter experts. They can help prioritize strategies, identify target facilities, nominate key staff to lead change efforts, and develop pilot programs. In addition, they can become credible messengers amongst their peers, helping generate buy-in throughout the department.
- b. Develop internal communication plans and tools for staff with feedback mechanisms; explain changes to be made, reasons for reforms, and the role staff play in the changes.** Vera urges the Department to develop a communications plan that reaches all levels of staff, people who are in the Department’s custody, as well as external stakeholders. Utilizing a wide array of communication strategies can ensure various audiences receive important information (e.g., briefs, memos, powerpoints, and

¹²⁰ For more information on procedural justice, see Emily Gold and Melissa Bradley, “The Case for Procedural Justice: Fairness as a Crime Prevention Tool,” *Community Policing Dispatch* 6 no. 9 (2013) and Tom R. Tyler, *Why People Obey the Law* (New Haven, CT: Yale University Press, 1990).

talking points for mid-level management; e-mails, pocket cards, and roll call for uniform staff). Communicating goals is essential to cultivating staff that have ownership and pride in their work. Ownership and pride are essential to successful implementation of changes.

Recommendation G10: Take time for thoughtful implementation. It is not enough to identify and adopt solutions to a problem if the solution is not delivered with fidelity and integrity. To avoid implementation gaps, it is imperative to spend time conceptualizing implementation before mandating new practices.¹²¹ While some solutions can be implemented quickly, other, more complex solutions may require more time. Implementation science shows that optimal implementation includes two to four years of exploration (finding solutions), installation (communication, preparation, and other behind-the-scenes tasks), and initial implementation (change in practice that may receive pushback or resistance), all of which is followed by full implementation, where the solution is fully integrated into organizational culture and is seen as accepted practice.¹²² While some of the more complex strategies recommended in this report might take a few years to implement, there is also value to identifying “quick wins” that demonstrate to stakeholders the Department’s commitment to finding solutions in the interim. For all strategies the Department identifies for implementation, Vera suggests employing the following approaches.

- a. Develop implementation teams.** Research shows that teams made up of system stakeholders of varying levels, as well as “community” members are most effective. (In the context of corrections, these community members may include people who are currently incarcerated in the Department’s system or people who have been formerly incarcerated.)¹²³
- b. Create a comprehensive implementation plan.** Implementation teams should be tasked with developing clear plans that prioritize strategies based on impact, feasibility, and required resources; assign tasks and timelines for completion; identify and address training needs; and keep the implementation process focused on solving problems.¹²⁴ Implementation plans should also consider appropriate sequencing—the order in which

¹²¹ Implementation gaps refers to the phenomenon of policies and procedures existing on paper but not in practice.

¹²² Dean L. Fixsen et al., *Implementation Research: A Synthesis of the Literature* (Tampa, Florida: University of Southern Florida, 2005), 15-17.

¹²³ Roger Przybylski, “Implementation Science and its Relevance for Evidence-Based Initiatives,” Presentation to the Bureau of Justice Assistance’s Justice Reinvestment Steering Committee, Washington, DC, July 10, 2014, 24.

¹²⁴ Fixsen et al., 2005, 97.

strategies can be implemented. For example, before closing PSEG II, the Department will need to have an established set of alternative sanctioning options.

c. Identify challenges that arise as either technical or adaptive in nature.

Technical problems are easy to identify and usually have a simple solution that people are generally receptive to (e.g., implementing an electronic system for ordering medications in hospitals to reduce negative drug interactions). Adaptive challenges are difficult to identify (and therefore easy to deny) and require changes in beliefs or approaches to work (e.g., encouraging nurses to question illegible prescriptions written by physicians).¹²⁵ Applying the right solution to the right type of challenge is essential for effective implementation.

d. Establish strategies to measure success, receive feedback, and make adjustments to implementation. For example, performance and outcome measures—which may be quantitative or qualitative—serve as “temperature checks” on how implementation of a particular solution is impacting the problem. Similarly, incorporating staff evaluations, “customer” satisfaction surveys (in the context of corrections, the customer may include people who are currently incarcerated in the Department’s system or people who have been formerly incarcerated), and program assessments provide important feedback to implementation teams to guide decision-making.¹²⁶ In addition, Vera urges the Department to develop a comprehensive internal communication plan to convey outcome measures—and any planned adjustments to implementation—to all staff, in order to maintain momentum and buy-in for changes department-wide.

¹²⁵ Ronald A. Heifetz and Donald L. Laurie, “The Work of Leadership,” *Harvard Business Review* 75, no. 1 (January-February 1997), 124-134.

¹²⁶ Roger Przybylski, 2014, 28.

V. Conclusion

In recent years, a diverse range of international and national organizations, policymakers, and corrections practitioners have called for reforms on restrictive housing. Whether citing the potentially devastating psychological and physiological impacts of spending 23 hours a day alone in a cell the size of a parking space, the costs of operating such highly restrictive environments, or the lack of conclusive evidence demonstrating that segregation makes correctional facilities safer, these voices agree that reform and innovation are worthwhile endeavors. In 2017, many segregation reform efforts are still in their infancy, and are largely taking place in prison systems in states like Colorado, New Mexico, Pennsylvania, and Washington. Still, as the examples discussed in this report make clear, there is much to learn from this ongoing work that is applicable to the local jail setting.

The New York City Department of Correction has already made great strides in tackling its use of segregation, reducing its population by almost 90 percent from its peak in the last several years.¹²⁷ As the Department continues to move forward with its implementation of current and future reform efforts, Vera has every confidence that the agency will learn from its peers, capitalize on its own strengths, and use the recommendations in this report as a springboard for improving the lives of the men and women who live and work in New York City's jails.

¹²⁷ Joseph Ponte, Statement before the New York City Council Committee on Fire and Criminal Justice Services and Committee on Finance (New York: May 8, 2017), 7.

Appendix I: Glossary of key terms

-A-

Adjudication Unit: The Department’s Adjudication Unit conducts disciplinary and due process hearings. The Unit is composed of Captains and an Assistant Deputy Warden, who reports to the General Counsel and supervises the Captains assigned to the Unit. Captains rotate facilities and do not report to the Commanding Officer of the facility to which they are assigned.¹²⁸

-B-

[New York City] Board of Correction (BOC): A nine-member, non-judicial oversight board that regulates and monitors the New York City Department of Correction (the Department). The BOC acts as an independent monitor, and serves to enact regulations—known as Minimum Standards—that support safe, fair, and humane corrections practices in New York City.

-C-

Central punitive segregation unit (CPSU): Also referred to as PSEG I, Bing, or Box. This is the most restrictive punitive segregation unit the Department operates. People in CPSU may be locked in their cell for up to 23 hours a day with one hour out of their cell for recreation.

Clinical Alternatives to Punitive Segregation (CAPS): A specialized housing unit for people with serious mental illnesses (SMIs) who have been found guilty of an infraction and issued a sanction to punitive segregation. Patients in CAPS receive in-patient levels of care, consisting of intensive therapeutic schedules that include group programming, one-on-one sessions with mental health providers, and art therapy. By program design, people with an SMI who have committed a rule violation and are sentenced to punitive segregation time have their time suspended until they successfully complete the CAPS program, at which time the punitive segregation time is expunged. If the CAPS program is not successfully completed, the Department and a mental health provider work together to find a suitable alternate housing placement. CAPS is not considered a form of punitive segregation and is not restrictive.

¹²⁸ Department Directive 6500R-D, “Inmate Disciplinary Due Process.”

-E-

Enhanced restraint (ER): Typically considered a status rather than a housing assignment or unit, ER is designed to ensure that people who have committed violent acts (e.g., assault or attempted assaults on staff or other incarcerated people; substantial property damage that places any person at imminent risk of harm; etc.) are put in enhanced restraints during any movement off the housing unit to which they are assigned. Placement onto ER status is not dependent on an adjudication of guilt on a rule violation, and is therefore not considered punitive segregation, though it is considered restrictive; while people on ER status are not necessarily housed in restrictive environments, they may be.

Enhanced supervision housing (ESH) unit: ESH is a unit designed for people who have persistently been involved in violent incidents or are influential leaders in a security risk group (SRG), demonstrating a sustained threat to the safety and security of the jail. ESH is intended to be program-intensive and involves a level system. The first level allows people to have seven hours a day out of cell, and individuals can earn additional of out-of-cell time. Placement into ESH is not dependent on an adjudication of guilt on a rule violation, and is therefore not considered punitive segregation, though it is considered restrictive housing.

-G-

General population escort (GPE): Individuals who may be vulnerable but who are not, in the Department's estimation, in immediate danger, may be assigned to GPE status. An officer escorts people with GPE statuses any time they move off their assigned housing area. The Department emphasizes the designation of GPE as a status and not a housing assignment or special unit, though the Department may house these people together on a unit exclusively with other people on GPE status.

-H-

[New York City] Health and Hospitals (NYC Health + Hospitals): The city agency responsible for the management and the administration of health care in the city's jails.

-M-

"M" designation (Brad H flag): As part of a settlement agreement stemming from *Brad H. et al. v. The City of New York et al.*, the Department, in partnership with the New York City

Department of Health and Mental Hygiene (DOHMH), established a method of demarcating individuals who, during one incarceration event, have had contact with the mental health care system. An “M” designation is assigned to people who have engaged with the mental health care system at least three times, or those who are prescribed certain classes of medication (such as antipsychotics or mood stabilizers). It is important to note that an “M” designation does *not* indicate ongoing mental health needs or severity of diagnosis. “M” designations serve as the only mental health indicator available to the Department and function as a key tool in the placement of individuals in department housing.

Mental observation (MO) units: For incarcerated people who would benefit from closer contact with mental health providers, MO units are intended to allow clinicians to provide higher levels of care than are available in the Department’s general population housing units. Most MO units offer outpatient-type care (such as talk therapy). Importantly, while everyone in MO units has an “M” designation, not everyone with an “M” designation is housed in an MO unit; people with “M” designations may be housed in the Department’s general population housing units.

-P-

Program for Accelerated Clinical Effectiveness (PACE): The PACE program works with individuals diagnosed with SMIs who require an in-patient level of care but for whom CAPS is not an appropriate placement (because they have not been found guilty of committing a rule violation). The program design is based on the CAPS treatment model and is intended to encourage individuals to take prescribed medication through the provision of various incentives and rewards.

Protective custody (PC): People in the custody of the Department who have concerns for their own safety and require separation from specific people or groups of people may be placed in PC units. PC units operate with the same privileges and restrictions as general population units.

Punitive segregation: Refers to three distinct housing units—central punitive segregation units, restrictive housing units, and punitive segregation II units—for which adults in custody may be placed while under investigation for a rule violation (“pre-hearing detention”) or who have an adjudication of guilt on a violation of the rules outlined in the Inmate Rule Book. The Department may not use any form of punitive segregation for people under the age of 18, young

adults (ages 18 to 21), and people with serious mental or physical disabilities or conditions. The term is inclusive of all three units unless stated otherwise.

Punitive segregation II (PSEG II): Also referred to as PSEG Lite, or Bing Lite. Punitive Segregation II is used for people found guilty of nonviolent Grade I infractions and all Grade II infractions. People in PSEG II are locked in their cell for up to 17 hours a day, with seven hours out of their cell.

-R-

Restrictive housing: For the purpose of this assessment and report, Vera defines restrictive housing as any housing unit or status which satisfies two conditions: it (1) holds incarcerated people separately from general population and (2) places greater restrictions on out-of-cell time, congregate activity, and access to programming than in general population. The term includes all forms of punitive segregation as well as enhanced restraint status and enhanced supervision housing.

Restrictive housing unit (RHU): A punitive segregation unit designed for some people with mental health needs (but not diagnosed with a serious mental illness). The unit employs a level system that allows individuals to work their way from the most restrictive form of segregation (cell lock-in for 23 hours a day) to 20 hours of cell lock-in.

-S-

Security risk group (SRG): The Department defines SRGs as “possessing common characteristics that distinguish the group from other inmates or groups of inmates as a discrete entity that jeopardizes the safety of the public, staff, or other inmate(s), and/or the security and order of the facility.” SRGs are designated by the commissioner and informed by the Intelligence Unit’s recommendations.

Appendix II: Summary of Recommendations

This appendix provides a summary of Vera's recommendations to safely reduce the NYC Department of Corrections' use of punitive segregation and other types of restrictive housing. See full report for Vera's findings and expanded explanation of recommendations.

B. Punitive segregation

Recommendation B1: Eliminate the use of punitive segregation for all Grade II and nonviolent Grade I infractions and use alternative sanctions.

Recommendation B2: Develop a structure of alternative sanctions and informal responses.

- a. Enhance privileges in general population.
- b. Engage the BOC to create flexibility in Minimum Standards, when appropriate.
- c. Leverage existing programs and privileges, and expand others.
- d. Focus on behavior change when responding to rule violations.

Recommendation B3: Reduce 20-day penalties to 10 or 15 days.

Recommendation B4: Increase transparency of department directives and practices regarding due process procedures.

- a. Create a single sanctioning grid.
- b. Train staff on due process policies and procedures.
- c. Implement procedures that allow adjudication captains to communicate disposition outcomes directly to people who have been found guilty of an infraction.
- d. Reflect OSIU decision-making and tracking processes in department-wide data systems.

Recommendation B5: Reduce the number of people for whom the Department has overridden the 30- or 60-day limit.

- a. Use OSIU to filter override requests before they are sent to the chief of department.
- b. Determine if less-restrictive housing may be appropriate.
- c. Develop individualized case plans for approved overrides.
- d. Establish procedures for individuals to earn time off their owed punitive segregation time.

Recommendation B6: Improve conditions of confinement in punitive segregation.

- a. Allow more opportunities for out-of-cell time and congregate activity.

- b. Develop behavior-specific programming.
- c. Create more opportunities for productive activities in-cell.

Recommendation B7: Increase presence of mental health providers in CPSU.

Recommendation B8: Close PSEG II.

Recommendation B9: Establish achievable pathways out of CPSU and PSEG II.

- a. Develop criteria to cut deferred time once back in general population.

Recommendation B10: Restructure the RHU program.

- a. Adjust the RHU incentive program to accommodate 30-day limits.
- b. Increase out-of-cell time, beginning with Level Zero (the most restrictive level of RHU).
- c. Develop behavior-specific treatment plans and programming.

Recommendation B11: Establish a structured reintegration process for people who are released from punitive segregation into general population.

Recommendation B12: Incentivize positive behavior in general population.

- a. Use increased privileges to incentivize positive behavior.
- b. Use security classification to differentiate between privilege levels in general population.
- c. Defer segregation sanctions as an incentive.

Recommendation B13: Explore deterrence-based violence reduction models and consider piloting such a model.

Recommendation B14: Eliminate the automatic assessment of a \$25 fine for all infractions.

C. Mental health populations

Recommendation C1: For people charged with a CPSU-eligible infraction, work with H+H to incorporate mental health reviews (for people with “M” designations) into the disciplinary process, prior to disposition.

Recommendation C2: Use alternative sanctions that responds to behavior when adults in custody with “M” designations commit infractions.

Recommendation C3: Incorporate informal responses and incentive-based systems, like the token system used in PACE and CAPS, into the general operations of MO units.

Recommendation C4: Increase permanent staff assignments in MO units and recruit staff that are skilled at working with this population.

Recommendation C5: Work with H+H to provide a higher level of care on MO units.

Recommendation C6: With H+H's input, design treatment teams for MO units that incorporate correctional officers.

Recommendation C7: Work with H+H to review all people with an "M" designation currently housed in CPSU and RHU to ensure no one in these units has an SMI diagnosis. Immediately find alternative, non-restrictive housing options for any individuals with an SMI. Incorporate periodic reviews into department practice.

Recommendation C8: Conduct an analysis of everyone with an SMI who has spent some amount of time in punitive segregation since January 2015 to determine if they were known to have an SMI prior to their placement in segregation.

Recommendation C9: Work with H+H to revise the CAPS operation manual to clarify that people diagnosed with SMIs cannot be housed in CPSU, PSEG II, or RHU.

Recommendation C10: Consult with NYC Health + Hospitals to find ways to share more mental health information with the Department.

D. Enhanced supervision housing

Recommendation D1: Establish clear criteria for level progression and ways to graduate from the ESH level program.

- a. Develop or update ESH orientation materials.
- b. Use multiple methods of communication (e.g., written, oral, visual) to communicate level progression, stagnation, regression, and graduation to people housed on the unit and staff who work on the unit.
- c. Revamp staff training on ESH, including the goals, level system, and their role on the unit.

Recommendation D2: Develop a multidisciplinary team to make placement, level movement, and program completion decisions.

Recommendation D3: Memorialize the level system currently in practice in department policy to ensure consistency and fidelity.

Recommendation D4: Conduct periodic case file reviews of the people in ESH to ensure level-system practice matches policy.

Recommendation D5: Establish a structured reintegration process for people who are released from ESH into general population.

E. Other types of restrictive statuses and housing units

Recommendation E1: Reconsider the need for dedicated ER status housing units.

Recommendation E2: Develop a process for people to work their way off ER status.

Recommendation E3: Conduct periodic and meaningful reviews of all people on ER status.

Recommendation E4: Change, when possible, the physical structure of units whose physical design dictates the level of restriction and isolation experienced by the people in those units.

Recommendation E5: Discontinue the practice of placing people who are not in punitive segregation or medical isolation in West Facility.

F. Racial and ethnic disparities

Recommendation F1: Create a committee to study and address disproportionate minority contact with segregated housing.

Recommendation F2: Closely monitor the impact of implementing the recommendations in this report on people of color.

G. System-wide

Recommendation G1: Offer support to people in general population to help them succeed.

- a. Focus programming on people with the highest risk and needs.
- b. Examine strategies that may help adults in custody alleviate stress and reduce their likelihood of breaking the rules.
- c. Reduce idleness.

Recommendation G2: Reevaluate the need for specialized housing units and statuses.

- a. Eliminate GPE in facilities that already have escorted movement.
- b. Merge GPE and PC in all non-escorted movement facilities.
- c. Eliminate administrative segregation and house people by security classification instead.

Recommendation G3: Explore ways to improve staff wellness, particularly for those staff assigned to segregated housing units.

Recommendation G4: Use conflict resolution approaches as a response to interpersonal conflict among people in department custody.

Recommendation G5: Update all department directives, the inmate handbook, and the Inmate Rule Book to be consistent with current and new policies.

Recommendation G6: Institute permanent staff assignments for all specialized housing units.

Recommendation G7: Incorporate a coaching model to reinforce training with feedback and accountability mechanisms.

- a. Ensure veteran officers, supervisors, and facility management receive new training when new cadet classes receive new training.

Recommendation G8: Incorporate concepts of procedural justice into training curriculum for all staff.

Recommendation G9: Engage union leadership and staff at all levels in the implementation of new strategies.

- a. Identify champions in leadership and at the facility level to lead the reform efforts on the ground.
- b. Develop internal communication plans and tools for staff with feedback mechanisms; explain changes to be made, reasons for reforms, and the role staff play in the changes.

Recommendation G10: Take time for thoughtful implementation.

- a. Develop implementation teams.
- b. Create a comprehensive implementation plan.
- c. Identify challenges that arise as either technical or adaptive in nature.
- d. Establish strategies to measure success, receive feedback, and make adjustments to implementation.